Hertl, Peter
Confidential

11-4-2010

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

CITY OF GREENVILLE, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	No. 10-188-JPG
	)	
SYNGENTA CROP PROTECTION, INC., and SYNGENTA AG,	)	
	)	
	)	
Defendants.	)	

The deposition of PETER HERTL, called by the Plaintiffs for examination, taken pursuant to notice and pursuant to the Federal Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Jennifer D. Riemer, Certified Shorthand Reporter, Registered Professional Reporter, and Certified Realtime Reporter, at 227 West Monroe Street, 45th Floor, Room J, Chicago, Illinois, commencing at 9:42 a.m. on November 4, 2010.

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MR. JERRY BROWN;

MR. JEREMY MANGAN, Videographer.

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EXHIBITS

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THE VIDEOGRAPHER: We are now on the record. Here begins the videotaped deposition of Peter Hertl in the matter of City of Greenville, Illinois, et al., versus Syngenta Crop Protection, Inc., and Syngenta AG in the United States District Court for the Southern District of Illinois, Case No. 10-188-JPG. Today's date is November 4th, 2010, and the time on the video monitor is 9:41 a.m.

The video operator today is Jeremy Mangan, representing Westlaw Deposition Services. The court reporter today is Jennifer Riemer of Jensen Court Reporting, reporting on behalf of Westlaw Deposition Services. Today's deposition is taking place at 227 West Monroe Street, Chicago, Illinois. Counsels, please introduce yourselves and state whom you represent.

MR. TILLERY: For the plaintiffs, from the law firm of Korein Tillery in St. Louis, Steve Tillery and John Craig.

MR. POPE: Michael Pope and Peter Schutzel, McDermott Will & Emery, on behalf of the defendants.

THE VIDEOGRAPHER: Would the court reporter please swear in the witness.

(Witness sworn.)

THE VIDEOGRAPHER: Please proceed.

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WHEREUPON:

PETER HERTL,

called as a witness herein, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. TILLERY:

Q. Before we get started, I'm going to sort of warn you that I'm getting over a Brussels cold, so I -- I may be coughing. I apologize for that in advance. Okay?

A. Sorry.

MR. POPE: In other words, keep your distance.

MR. TILLERY: Actually, I don't think I'm contagious.

BY MR. TILLERY:

Q. For this record, would you state your name, please.

A. My name is Peter Hertl.

Q. And would you tell us where you were born, sir?

A. I was born in Stuttgart, Germany.

Q. How old are you?

A. I'm 54 years old.

Q. Where do you -- where is your permanent address?

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A. My permanent address is in Jamestown, North Carolina, 109 Thora Drive.

Q. How long have you lived there?

A. Since '97.

Q. And consistently at that same address?

A. Yes, correct.

Q. What is your current job?

A. My current job is I am the head of global product safety for Syngenta Crop Protection.

Q. How long have you had that job?

A. First -- Beginning of 2010. I have to go with that.

Q. I'd like to walk back through your education and training now, if we can, to start off. Where was your first education after what we in America would call high school?

A. You know, I attended the University of Tübingen in Germany. Did get a -- a diploma, degree in chemistry. You know, that compares to a master's degree here in the U.S. And then proceeded to get a Ph.D. degree in organic chemistry from the same university.

Q. Again, that university is?

A. University of Tübingen. T, umlaut, U B E -- B I N G E N

Q. And where is that?

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A. That's in southern Germany in the state of Baden-Württemburg, which is the southwestern state of Germany.

Q. By whom are you employed today?

A. Today I'm employed by Syngenta Crop Protection, Inc., in Greensboro.

Q. How long have you been employed by Syngenta Crop Protection, Inc., in Greensboro?

A. Since September 1st, 1997. Well, and the predecessor company. You know, my first employment was with Novartis Crop Protection in Greensboro, which was one of the predecessors of Syngenta, before the merger to Syngenta.

Q. Which became ultimately Syngenta --

A. Syngenta --

Q. -- Crop Protection, Inc.?

A. -- correct, yes.

Q. Okay. After you got your master's degree, did you have a job? A full-time job?

A. No. I did receive my master's degree, and then I did receive a grant of the National Academy of Sciences in Germany to -- to get my Ph.D. degree. Which -- And I started right after I received my master's degree.

Q. What was your Ph.D. degree major area of

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study?
A. Electrochemical organic chemistry, and specifically I was investigating the reaction mechanisms of --
THE REPORTER: You were studying what?
BY THE WITNESS:
A. Electrochemical organic chemistry; specifically it was the reaction mechanisms of oxidation mechanisms of anilines, which is one class of organic molecules.
Q. And what year was it that you were awarded your Ph.D. degree?
A. 1987.
Q. How old were you at that time?
A. 31 years old.
Q. And then what was your first job after that?
A. My first job after that was in a small chemical company in Germany called Rinol, R I N O L. And they were developing electro conducting polymers for industrial applications.
Q. What did you do there?
A. Product development.
(Hertl Deposition Exhibit No. 1 marked as requested.)
BY MR. TILLERY:

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Q. The court reporter has marked your curriculum vitae as Exhibit No. 1.
A. Mm-hmm.
Q. Is this an accurate, up-to-date CV?
A. That's correct.
Q. Now, what did -- How long did you stay in this job you just told me about?
A. Only a couple of months, really. I started it in summer 1987. And -- And then I joined Sandoz in Basel 1st of April 1988. So it was three, four months.
Q. Okay. And -- And what did you do at Sandoz in your first job?
A. My first job, I was team lead for the residue chemistry group in Basel, Switzerland.
Q. And what does that mean?
A. Well, you know, it -- it included responsibility to manage a team of 10 to 11 scientists -- I don't recall the exact number -- to generate crop residue data, mainly supporting registration of our compounds in European markets.
Q. Tell us what residue data is.
A. Well, when you do apply a crop protection chemical to a crop, there will be occasionally minute amounts of that material left on the crop once they are harvested and in the commercial trade. And these

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residue levels, these small quantities, they're regulated. We generate the data that allow the regu -- regulatory limits for those crop residues on the crops to be set by the authorities.
Q. And what particular molecules were you studying at that time?
A. Well, that would have included the range of -- of compounds that Sandoz Agro at that point in time developed and marketed in Europe. So it was -- I don't recall the exact list of active ingredients, but it was probably seven, eight, nine, ten different active ingredients that we developed.
Q. That you were developing?
A. Developing and supporting.
Q. This wasn't existing crops that were all -- sorry -- Strike that.
This wasn't existing compounds that were already on the market? This was a new type of compound?
A. Both. Both. It was existing compounds, and when you do have existing compounds and you continue to develop them, there is a need to support new data for continued development of existing compounds. But it also included new compounds that weren't on the market at that point in time.
Q. The -- when was the first time you ever worked

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with atrazine?
A. The first time I've worked with atrazine was after I arrived in the U.S. So that was in -- following my arrival here in 1997. Probably my direct involvement started around the year 2000.
Q. Okay. So back to this job you had starting in 1988. How long did you have that position?
A. I had that position until 1990 -- end of 1993, beginning of 1994. Let me check my -- It says August 1994. Until August 1994. And then moved on to assume a similar but slightly broader position in the -- a different Sandoz affiliate in France.
Q. And how was that position in France different?
A. The area of responsibility was a little bit larger. So -- But used to be crop residue data, development, and my first position in Basel was then extended to environmental exposure data generation and included also environmental and crop metabolism studies. It also included the responsibility for a larger team. We had about 40 team members at the site in France.
Q. Generally, what were those team members, those 40 people, doing?
A. Generally, what they were doing was they were working with, you know, samples of biological systems, so crop samples, plant samples, soil samples, water

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samples. They developed methods to analyze residues of hard compounds in those samples. They actually did the analyses and quantified residue levels in those samples. So that was about one-half of the group.

The other half of the group was doing, you know, basic research to understand how compounds break down in those biological systems. That's one of the -- you know -- how do you call it? -- technical questions we need to answer for crop protection chemicals is not only how much is there, but also how do they break down in the different crops and in the different environmental compartments. So that was what the second half of the team was responsible for.

Q. And when you say "break down," what do you mean, sir?

A. Well, chemicals undergo reactions in the environment. You know, they undergo photo degradation in the influence of light. They undergo a hydrolytic degradation under the influence of water. And, you know, that happens not only to crop protection chemicals; any -- any chemical breaks down under environmental conditions.

So for crop protection chemicals, you have to demonstrate how they break down, how long it takes for them to break down, and what degradation products are

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formed. And, you know, if there is concern about some of those degradation products, these are regulated, as well. So we need to understand what the degradation process is. And if there is a safety --

Q. How do you assess the safety of a breakdown product versus the original chemical compound?

A. That's a good question. There is a direct and an indirect means to do that. So imagine you have a Chemical A breaks down into degradation Product B. If that same pattern of breakdown occurs in a mammalian test system, we usually, you know, do rodents tests to assess hazards or growth effects.

So if you have the same breakdown pattern in the rodents we are testing, then, you know, the -- the actual test accounts for the parent and the degradation product because you have to -- the test has been exposed to it. So that's the indirect way of doing it.

If the chemical doesn't break down in your animal test system into that metabolite, you have to test that metabolite separately in a -- in a -- in a rodent assay.

Q. How do you do that?

A. Well, the rodent assays are usually designed to, you know, show an adverse effect. So what you do is you take the chemical, feed it to rodents over certain

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periods of time, and you would dose high enough that you can ensure that you do see an adverse effect so that you know what the adverse effect is.

And then you have various lower dose levels that allow you to establish what the no-effect level is. So what is the level of chemical that you can expose the test system to so you don't see any of those effects.

Q. So this is the sort of thing in a very general sense, that was being done while you were in France?

A. We did do the breakdown and the quantification. We didn't do the animal assays. So there was no animal work done in France.

Q. Where would that be done?

A. The animal work -- well, that goes back to pre-Novartis times. The animal work would be done at a facility in -- close to Basel, Switzerland. That was a, you know, a Sandoz toxicology department that did the animal assays.

Q. Okay.

A. That's it.

Q. Excuse me.

Did that job change over the course of the time you spent in France, or was that roughly just the job in a summary form?

A. Well, it was -- As you can see, it was a

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relatively short assignment, two years -- less than -- well, a little bit more than two years. And, no, the job did not change because the job was -- The main subject of the job was to build up the team. It was a brand-new test facility. And to get them up and running and to get them GLP certified, which is a quality system that -- that you have to pass before you can do studies for regulatory purposes, which we achieved, I think in -- in 1995.

Q. What does "GLP certified" mean?

A. It is -- GLP stands for good laboratory practice. And it essentially means that each step of the work that is done in generating residue data or FAY data or animal assays is documented and recorded in a way that it is fully reproducible from the records, that all the conclusions that are drawn from the technical data are fully supported by the raw data, that the raw data have been fully collected and documented and are properly archived so that any conclusions drawn from the technical -- from the technical data and the studies can be repeated, reproduced, by an independent scientist.

Q. What was your next job?

A. My next job was -- It was just after the merger of Ciba-Geigy and Sandoz to Novartis, which happened, I think, towards the end of 1996. So I

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started my next job in January 1997 with Novartis Crop Protection in Basel. And I was heading the dietary exposure department for the merged company and -- for the crop protection business of the merged company, I have to say.

Q. And -- and your job there was in what city?

A. That was in Basel, Switzerland.

Q. And what is dietary exposure data? What does that mean?

A. It's -- it's very similar to what I did in the previous two roles. It included the crop residue studies that I had described earlier. And it included what I -- what we called "Dietary metabolism studies." So this is how do crop protection chemicals break down in the crops, and, also, how do crop protection chemicals break down or are taken up and excreted by farm animals. So this time we looked into crops, crop residues, and farm animals, and did do metabolism and residue work for both those biological systems.

Q. And that was a job that lasted for how long?

A. All of two months.

Q. Okay.

A. All of two months.

Q. And then what did you do?

A. And -- Well, in -- by the end of February

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1997, I assumed the additional responsibility for the toxicology department of human safety -- the toxicology department of Novartis Crop Protection, which was a partner department of the dietary exposure team.

So the organization consisted at that point in time of three groups. Dietary exposure, toxicology, and environmental safety was headed by a head of product safety, which left the company in February 1997, because he got an outside offer that he found more attractive.

So for an interim period I was responsible for the toxicology and the dietary exposure department, which were joined into the human safety department.

Q. Who was the head of this product safety at that time? Who left?

A. First name was Martin. I -- I don't recall the second name. I'm sorry.

Q. Okay. So that job started in March of 1997?

A. That's correct.

Q. And you became then the -- the head of human safety department?

A. Department for Novartis Crop Protection in Basel, yes, that's correct.

Q. Okay. What did you do in that job?

A. Well, you know -- So this was, you know, managing the technical teams which did the dietary

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exposure work that I described previously. The additional responsibility was to manage the tox testing facility that we had in -- in a site close to Basel, where the -- the animal assays were conducted which I described earlier for our range of new and existing products.

Q. And what were you doing with respect to human health or safety that you hadn't been doing in your previous jobs?

A. Well, that was the first time where we -- where I was responsible not only for determining what people are potentially exposed to, you know, through residues on crops that are treated, but I was also responsible for a group that did the other part of the equation, which is to determine what are potential adverse effects if you expose test animals to high doses, and what are the null effect levels, safe levels, in those test animals.

Q. And how did you go about conducting human toxicology studies or studies -- toxicology studies that could impact humans?

A. Okay. You know, I have to maybe be quite clear that we don't do toxicology testing in humans.

Q. Right.

A. This is not part of the test program. So we

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use animal species, quite a range of animal species as surrogate biological test systems to determine safe levels that can then be used for human risk assessments with additional safety factors added on top on those end points.

So what we do -- What we did do in that toxicology department, we did do the animal assays. And these are mostly rodent assays, but, you know, there are also tests done in rabbits and in dogs.

Q. Okay. And what were the tests designed to -- back to my point -- to assess in terms of impact on human health?

A. Well, the -- The test framework that -- First of all, it's a test framework that's sanctioned by OECD that's, you know, is under -- it contained in WHO frameworks and EPA frameworks. So that the assays that you have to do in order to establish safe level for human exposure is pretty well-defined in the regulatory community. It's not something that a company decides to do a certain way. It's very well-prescribed. So I have to just say that as an intro.

We would do a series of tests that would look at short-term exposure, which, you know, you probably know as acute exposure. So if you expose over a very short time period to -- to a set of biotics, what is a

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level where you see an effect? What is a safe level?
And then we would, you know, open up that exposure window, up to -- to do a life cycle study in rodents where we would look at chronic exposure, the test system is exposed chronically over their entire life span to a chemical. What would be -- the adverse effects be and what would be the level that shows no effect whatsoever.
Q. Was this for purposes of releasing new molecules to the market?
A. Yes. Yes.
Q. And was this required as part of the regulatory scheme that you were working within?
A. Yes.
Q. And was this a European, American, or both regulatory scheme?
A. Both. And I have to say that -- it -- it -- it -- it does depend on the discipline you're looking at. And -- And since we're -- You know, we have to separate different disciplines. So if you look at toxicology, this is really human -- the -- the animal assays that are used to define a safe dose in humans.
These are tests that involve a lot of test animals, are quite complicated to do, and they are typically done to globally agreed protocols. So a

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two-years' rat chronic assay is usually done only once. And in line with the globally agreed protocol under OECD, that's accepted by regulatory authorities worldwide.
Q. What is the goal when you're using animal studies. And I know that certain mammalian species allow you to extract --
A. Mm-hmm.
Q. -- impacts on --
A. Mm-hmm.
Q. -- on human beings --
A. Mm-hmm.
Q. -- and accepted in scientific study and analysis.
A. Mm-hmm.
Q. What is it that you seek to achieve in terms of a particular human being that you're looking at? Is there a particular hypothetical model of a human that you're looking at? A size? An age? What is that?
A. Well, we -- we look at all of them.
Q. Right.
A. Okay. We look at all of them. So -- And that's why you have assays that span a quite broad range in terms of time, but also in terms of purpose, what they run for.

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So, you know, obviously the -- the lifelong assay looks after chronic exposure. So if -- if people would be eating for 70 years a certain dose of their entire life, you know, what's -- what's a safe level and what are potential effects that you would see when you go to excessive doses. So that's -- So that's the goal for the two-years' rat assay.
But there are certainly assays that look at the, you know, developing offspring. So do we have any teratogenic effects as a result of exposure of models to the test chemical and what are safe levels, the same question. So we -- we look at certain life spans.
We also do look at effects and their relevance to humans. That's also part of the investigation. So when you do see an effect in a study, there is a question, and how does this apply to human risk assessment? And if those questions are on there, there's more work done.
Q. Now, this particular program that you were in at this time, this went on until -- until when, sir?
A. Until September '97.
Q. Okay. And when you did that, how was the protocol established in terms of releasing a new molecule? Was this worked through a lab first that developed the molecule?

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A. Well, molecule development -- Product safety is an important part of molecule development, but it's not the only part. So clearly you have to develop the biological efficacy or effect of the molecule, which is what you actually market. So a herbicide has to be an effective weed control agent or an insecticide has to be effective in controlling noxious insects. So that's the second component of product development.
There's a third component, which is the actual product that you bring to the market. So packaging, formulation of it. So you have these three components. Product safety is one of the product development streams -- streams that you would do. And you would bring it together with efficacy, which defines how much you'll have to use in order to get proper control and, you know, the product formulation, which is the physical bottle or container in which it is sold. And those together would then, you know, be evaluated as a -- as a product, you know, to be marketed.
Q. I was actually looking more toward the sort of stages of development of --
A. Okay.
Q. -- molecules --
A. Okay.
Q. -- which we -- which we will talk about --

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A. Mm-hmm.
Q. -- later on --
A. Mm-hmm.
Q. -- in this --
A. Mm-hmm.
Q. -- deposition.
A. Mm-hmm.
Q. But -- And you're very familiar with --
A. Mm-hmm.
Q. -- obviously with the stages of development. The work that you were doing at that time in your career, at what stage in the four-step process would that have occurred?
A. It would -- We would start doing work at Stage 2.
Q. At Stage 2?
A. At Stage 2.
Q. This was after the molecule left the laboratory?
A. It was after the molecule left the research laboratory and the molecular structure was defined as the candidate of choice.
Q. I see.
A. So we would -- We would do work at Stage 2, and what we call Stage 2 was a fitness evaluation.

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Q. All right.
A. So we looked at, you know, profiles, chemical profiles, safety profiles, biological profiles.
Q. Okay.
A. And if it was deemed to be fit, it would be promoted into full development, which is Stage 3.
Q. Now, the products that you were dealing with from September -- up until September of 1997, any of those molecules currently being sold by any Syngenta entities?
A. Yes.
Q. Which ones?
A. Let's see. That will be Phiametoxan was in -- in Stage 3 development. And I -- I was in charge of the function in Basel, which is currently our biggest product worldwide.
MR. POPE: Do you want to spell that for the court reporter.
THE WITNESS: Phia -- P H I A M E T O X A N.
BY THE WITNESS:
A. So that -- That springs to the foreground -- And, you know, there were probably one or two others which I can't recall.
Q. Okay. How many total molecules were you working on at that time?

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A. We typically had -- I -- I -- I cannot tell you exactly how many we were working on during that time window, but we typically had one or two new, different ingredients, new molecules, each year. So -- And since development phase takes about four years' time, you know, it would have to be somewhere between four and eight molecules --
Q. Okay.
A. -- to work on simultaneously at different stages in that four years' period.
Q. And what was the next job you had?
A. The next job was the head of environmental sciences in Greensboro, North Carolina, for Novartis.
Q. And that started in September 1997?
A. That's correct.
Q. And could you tell us what your duties and responsibilities were at that job?
A. Okay. So this is now a kind of a change in direction. You know, I had been responsible for crop exposure, residue exposure, and, you know, for a short period of time to do the animal assays for human safety assessment.
We do the same for environmental evaluations. So the environmental safety department looks at exposure levels that you might see in the environment as a

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consequence of using our chemicals on the field. So is there any volatilization going on; is there any runoff from fields going on? How do they degrade; how quickly do they degrade in the field once they're in the various crops? And do these levels that move from the site of application to nontarget sites --
THE REPORTER: To where?
THE WITNESS: To nontarget sites --
BY THE WITNESS:
A. -- do they cause an effect in nontarget organisms? In -- in organisms that you don't want to control.
So there is data generated around that, and that department was responsible for all that data generation for the U.S. These are local requirements because you look at local environments where you use the data using local use levels. It looks into the amount of product that's in those environmental compartments, so that's one part of the studies we do.
And then the other part of the studies we do is we establish safe levels in what we call representative nontarget organisms, where we study nontarget plants, nontarget animals. And you do simply the same risk assessment that I described earlier for the humans, but you look at environmental species

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instead.
Q. And you kept that job until actually the change from Novartis Crop Protection, Inc., to Syngenta Crop Protection, Inc.?
A. Yes, that's correct.
Q. Did your responsibility stay the same when the change occurred?
A. It -- It -- In -- In terms of technical responsibility, yes, it did stay the same. In terms of portfolio of products that we were responsible for, it grew because we had now the joint portfolios of previously used to be Syneca and Novartis to support through that team.
Q. So what did your job become after 2000? In December of 2000.
A. Well, it -- it -- I was responsible for environmental safety and ecological scientists for Syngenta, but for a larger range of products than previously. So that was a change. And we had a couple of new team members that joined as a result of the merger, which would be ex-employees that Syneca had in California. So the team grew and the number of active ingredients or products grew.
Q. Who were those team members?
A. Which ones?

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Q. You said you had a couple of additional team members that joined you from Syneca.
A. Yeah. Well, I don't -- I don't know if I can recall all of them because some of them have retired in the meantime. But it was -- Paul Hennely was one of those team members. Paul Forensis was one of those team members, which are still there today. And there might have been two more, which I don't recall which have left in the meantime, retired.
Q. Excuse me.
You said that you were responsible for environmental safety and ecological science --
A. Mm-hmm.
Q. -- for Syngenta.
A. Mm-hmm.
Q. Now, was that for the entire operation?
A. Well, it was for Crop Protection, Inc., in -- in the U.S.
Q. Okay. Was it -- Did you have duties and responsibilities beyond the United States?
A. No.
Q. So when you were working in -- in your job at that time, you weren't working, then, in a NAFTA position?
MR. POPE: That time being December of 2000.

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MR. TILLERY: When he started at Syngenta.
BY THE WITNESS:
A. To March -- Well, we did coordinate activities. First of all, I have to say there is very little environmental science data and support needed in Mexico. We did have a team in Canada, and there's a, you know, a group of scientists there that largely deliver studies and support needs in support of Canadian registrations. We would coordinate with them. But it would be their accountability to make sure that they did what they needed to do in terms of data generation for Canada. So this was a U.S.-based role.
Q. Okay. So what you're saying to me is that -- And what -- Just so we're clear on the record, what time frame are you talking about?
A. 2000 to 2003.
Q. From 2000 to 2003?
A. Yeah. And also the '97 to 2000. That -- That six-year period, really.
Q. And -- And was that the total -- totality of your job and responsibility at that time?
A. Yes.
Q. And you're saying to me that you had no job responsibilities outside of the United States?
A. No, no.

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Q. You didn't?
A. I did not have job --
Q. Okay.
A. -- responsibilities.
Q. And you had no -- You had no report -- Did you have reporting obligations outside of the United States?
A. No, I did not.
Q. So who did you report to at that time?
A. To the vice president of development.
Q. And who was that?
A. Let's see, the people changed. From 1997 to 2000, it was a Dave Wataker.
Q. Where was his office?
A. In Greensboro, North Carolina.
Q. What was his job?
A. He was the vice president of development for Novartis Crop Protection. And he retired with the formation of Syngenta, I believe. And his successor was Gary Dickson, who became vice president of development for -- development for Syngenta Crop Protection, Inc.
Q. Is there a functional reporting obligation that's different than the type of reporting obligation you've been telling me about?
MR. POPE: General or for him at that period of time?

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BY MR. TILLERY:
Q. For you.
A. For me. Well -- I mean, function -- We would always coordinate activities in areas where we could use data more broadly. You know, for example, I did describe to you that the toxicology testing -- and also some of the ecotoxicology testing -- is using animals, is then -- is then to always heed the protocols and to the extent it's possible, you would do those tests only once. You know, for animal use reasons, for cost reasons.
So, I mean, there was coordination, functional coordination, going on so that when these studies were done, irrespective of where they were done in the organization, that they were done in a form and fashion that they could be used by whoever needed to use them without having to be repeated.
Q. Do you know what I mean when I say the words "functional reporting"?
A. No. Describe that for me.
Q. Well, actually, it's been a term that's been used by other Syngenta witnesses --
A. Mm-hmm.
Q. -- and I was wondering if you're familiar with it?

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A. Well, we -- You know, I -- I -- I -- I think -- I believe --
MR. POPE: You're -- you're -- you're not being asked to testify what the other people testified to. He's just asking you a question as to what you understand the use of the term, if you do.
BY MR. TILLERY:
Q. Right. I'm asking you what "functional reporting" means.
A. Well, the functional reporting means, for me, the coordina -- coordination of test programs with our product safety teams elsewhere that generate data that we use to support registrations in the U.S.
Q. So was that --
A. So it's a coordination of work progress.
Q. Okay. What does the word "coordination" mean, then, when you use it in that context?
A. Well, the coordination means for me that, you know, if -- if you look at an environmental safety test program that we would do in support of -- of a new product we develop, there is a list of activities that need to be done in order to pass regulatory requirements.
And coordination would mean that you would sit down and clearly define, these are local requirements,

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they have to be done in the respective regions. They would be done in Europe or in the U.S., because they had to be done in local environments.
And then there is a piece of the work program that is laboratory based, and the data can be used everywhere, if done properly, where you are looking to gain registration. And the coordination discussion would be to agree who is doing it, how is it being done, where it is being done, how it is being funded.
Q. Would you agree with me, sir, that there are multiple different components to getting a molecule ultimately to the market in terms of scientific analysis that has to be done?
A. Yes.
Q. And when you talk about coordination, you're talking about some of the work being done here in the United States, some of the work being done at the UK in laboratories, correct?
A. Correct.
Q. And that work wouldn't be repeated in the U.S., would it?
A. No, it wouldn't. And some of the work would be done in the U.S. and would be used in the UK, and it wouldn't be repeated there.
Q. Exactly. And some of the work would be done

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in Basel, too, wouldn't it?
A. Not nowadays, but maybe --
Q. At that time?
A. When we had units in Basel, some of the work would be done in Basel and used in the U.S.
Q. So coordination, what you meant was, is that rather than redoing all of these things in each area, you have one part of the group or project being done in one part of the world, and another being done in another part of the world, and putting all those pieces together to conclude with a molecule that can be sold?
MR. POPE: Objection to the form of the question.
MR. TILLERY: Go ahead.
MR. POPE: You're trying to summarize his testimony. And it's not accurate.
BY MR. TILLERY:
Q. You can go ahead.
A. Just to make that clear, when we -- product data safety package contains a lot of elements, but we can clearly break it down to two major pieces. The first piece is all the work that needs to be done in the environments where we use the product.
So give you an example. If we develop a corn herbicide in the U.S., we have to do the environmental test programs in the U.S. If we develop the same set of

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corn herbicide elsewhere, there is the tox testing that is necessary to get the registration, would be done only once and can be done in the U.S., or can be done anywhere that we have a competent laboratory, and the assay would be done only once.
Q. Back to my question, though.
A. Yeah.
Q. That was really a different question. My question to you is, these different facets of the overall process that are involved in getting a molecule into a product onto the market --
A. Mm-hmm.
Q. -- involve different components being done in different operations by different subsidiaries around the world; isn't that correct?
A. Different components done by different subsidiaries around the world, that's correct, yes.
MR. TILLERY: Can we take just a couple-minute break.
MR. POPE: Of course.
THE VIDEOGRAPHER: This marks the end of Videotape No. 1 in the deposition of Peter Hertl. It's now 10:24 a.m. Going off the record.
(A short recess was had.)
THE VIDEOGRAPHER: Going on the record. This marks

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the beginning of Videotape No. 2 in the deposition of Peter Hertl. The time is now 10:34 a.m.
BY MR. TILLERY:
Q. What was your next job?
A. My next job was head of global environmental fate.
Q. And what was your responsibility?
A. My responsibility was to, well, lead the environmental fate groups in their program development for -- at the various Syngenta sites to deliver the environmental fate program that we needed to support globally to gain our registrations.
Q. What does "environmental fate" mean?
A. Environmental fate has two pieces to it. One is to define how a compound breaks down in environmental compartments. So very much like what we did previously with crops and farm animals. Now it's environmental compartments, so it's soil, water, air.
And the second piece of it is once we understand how it breaks down, to conduct studies and tests in the local environments to see what residue levels you would expect in environmental compartments as part of the application and the breakdown processes.
Q. When you said that you were the global head over the various Syngenta sites, what were these various

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other Syngenta sites over which you had global responsibility?
A. Well, we had -- I had direct lineman's responsibility for the Greensboro operation, where I was the line manager. And then there were two more teams in -- in the organization. One was based in the UK, in Jealott's Hill; the other one was based in Basel, Rosenthal, which did environmental fate programs in support of European registrations.
And so that role -- I then agreed lineman responsibility for the Greensboro site and coordination of programs where we did mutual data generation for the three sites that did develop data. Some of them can be used irrespective of site.
Q. And who was the head of the UK site who reported to you as global director?
MR. POPE: Objection to the form of the question. No foundation.
Go ahead.
BY THE WITNESS:
A. Who was the head of the UK site? I have to go down memory lane for a minute. Mike Earl.
THE REPORTER: What was that name?
THE WITNESS: Mike Earl.
THE REPORTER: U R L?

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THE WITNESS: E A R L.
THE REPORTER: Thank you.
BY MR. TILLERY:
Q. And what was his title?
A. I don't recall.
Q. And who did he work for?
A. You mean employer?
Q. Yes.
A. Well, he --
Q. Who was his employer?
A. Well, I don't know the legal name of the affiliate, but it would -- would have been the -- you know, the crop protection organization of Syngenta in the UK.
Q. Right. I'm -- I'm -- I'm wanting to know who employed him.
MR. POPE: He just said he didn't know.
BY MR. TILLERY:
Q. Who did he work for?
MR. POPE: Objection. He just said he didn't know.
BY THE WITNESS:
A. I -- I -- I don't know. I didn't employ him.
Q. Okay. And he did not work for Syngenta Crop Protection, did he?
A. I --

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Q. Syngenta Crop Protection, Inc.?
A. No. In the U.S., no.
Q. He worked for another Syngenta subsidiary, would you agree?
A. I don't know.
Q. So you don't know that he even had any connection with the business?
A. Well, he did work for a Syngenta organization.
Q. So we got that.
A. Yes.
Q. So you -- would you agree with me -- I -- I'm trying to make this --
A. Yeah.
Q. -- as easy as we can.
A. Yeah.
Q. Okay. And would you agree with me, then, that he worked for another subsidiary within the Syngenta umbrella?
A. Yes.
Q. And you just don't happen to know which one that is?
A. That is correct.
Q. Okay. It didn't matter to you?
A. It didn't matter to me.
Q. Okay. It didn't matter. You were sharing

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information, working together?
A. Coordinating programs, yes.
Q. Coordinating. You were working together on a project. And what projects were you working together on?
A. Oh, that would have been development projects that we had in development in that time period. So a new active ingredient that we developed in that time period, was mendiproponite, which was one of our newer fungicides; there was prinoxodan, which is one of our new herbicides. These are the two active ingredients that were in Stage 2 or 3 at that time.
And then there's always a lot of support work for compounds under range where you have to develop data as part of the life cycle management program.
Q. Was mesotrione one of those?
A. Mesotrione was established and introduced to the market at that point in time. So we -- I don't think that there was a lot of work going on with mesotrione.
Q. Was there any?
A. There might have been some small, but not big programs, because, you know, that was after mesotrione, which is both in Europe and in the U.S.
Q. Who was the person who headed up the Basel

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site, the Syngenta site, who reported to you?
MR. POPE: Objection to the form of the question. I don't believe there's any testimony that these people reported to him.
MR. TILLERY: Well -- okay. You can make your objection if --
MR. POPE: I have.
MR. TILLERY: -- you want to speak.
MR. POPE: I have made my objection.
MR. TILLERY: But I -- I -- I don't like the speaking objections. If you think it misstates evidence, you can say that. But I don't like the speaking objections.
BY MR. TILLERY:
Q. Who was the person at Basel who headed up the Basel site that you said was within this group over which you were global director?
A. That was Udo, Plücken, P L, umlaut, U C K E N.
Q. And what was his title?
A. I don't recall.
Q. Do you know which entity he worked for of the Syngenta entities?
A. He would have worked for Syngenta Crop Protection AG.
Q. And do you know what his job title there was

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at all at Syngenta Crop Protection AG?
A. Well, he was a Syngenta fellow and team lead for the environmental fate group. But I don't recall the exact title.
Q. How many total people were working within the Syngenta umbrella of entities within this group?
A. Within the environmental fate group?
Q. Yes. The -- the group that you said you started in April 2003 as head of global environmental fate.
A. Yeah.
Q. How many would be involved in that?
A. About 100. About 100.
Q. And where were they located?
A. We had -- about 40 of them were in Greensboro. We had about 45-ish in Jealott's Hill in the UK and about 15 in Basel.
Q. Did that group that you just identified, the global environmental fate group, do work to support registrations in other countries?
A. Well, some of the work they did did support registrations in all the countries where the product needed support. And these are the -- the fundamental breakdown tests that you do in laboratories. And so there were tests done in the UK that were used in Europe

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and in the U.S. There were tests done in the U.S. that were used by European colleagues to support registrations.

But the majority of the work had to be done in local environments, so the actual determination of residues in environmental compartments in fields or close to fields had to be done in the respective countries even.

So here in the U.S., you have to do it locally. In Europe, you have -- you have regulation to do these tests locally, which is also true in some of the countries outside of Europe and the U.S.

Q. But my question to you was whether -- first of all -- whether that group was doing work to support registrations in other countries, outside of the area where the work was being done?

A. Yes.

Q. So work was being done in the United States that would facilitate a registration for a product in another country, correct?

A. A smaller part of that work, yes, you know, fell in that category.

Q. And work was being done at Jealott's Hill to support registrations in the United States --

A. Correct.

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Q. -- or other countries, correct?

A. Correct.

Q. And at that time work -- some work was being done at Basel to support registrations in the United States, correct?

A. Basel was an exception because Basel had no experimental facilities at that point in time. So all they did was document preparations, official document preparation, and coordination of activities.

Q. So that --

A. No -- no actual studying work done --

Q. Okay.

A. -- in Basel.

Q. But you -- so you could have gotten by without the document preparation? You could have cut that out at that time?

A. Well, not for Europe but for the U.S., we couldn't have -- we could have gotten by without it because you don't have to do specific submittal documents for the U.S.

Q. Okay.

A. So wouldn't have submitted it.

Q. But in Europe you would have needed it, right?

A. In Europe you need it, yes.

Q. And you're saying you don't submit documents

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to the EPA?

A. We do submit -- I have to correct that.

We do submit studies to the EPA.

Q. And the work they did in Basel included the submission of these types of documents for registration at that time, didn't it?

A. The work they did in Basel at that time was not submitted to the EPA, if that is what your question was.

Q. Was it done to support registrations?

A. In Europe, but not in -- in the U.S.

Q. Okay. Now, what was the next job you had?

A. The next job I had was -- was heading the environmental safety group for the Americas in 2007. So it was January 2007 to October 2007.

Q. So it was for a period of about nine months?

A. It was a period for about nine months, yes.

Q. And what was your responsibility for the Americas? Was that Latin America and NAFTA?

A. It was Latin America and NAFTA, that's correct.

Q. So this was environmental safety function for which countries?

A. Well, it would have included the three NAFTA countries, so Canada, the U.S., and Mexico. And there

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is very little environmental safety data needed in Latin at this point in time, but there is some needed in Brazil, so we did support our Brazilian colleagues, predominantly with technical advice and supporting their data generation activities scientifically in the --

Q. So --

A. -- Brazilian laboratories.

Q. -- what you're saying is you did no scientific testing for any of the other Latin American countries where it was sold, where these products were sold?

A. The upper Latin American countries usually accept data that have been generated elsewhere.

Q. Okay.

A. Only Brazil has a specific requirement to generate local data.

Q. And which countries are those besides Brazil?

A. Well, it would be all the 32 that are in Latin America on that continent, but the biggest ones are Brazil; Argentina is a big one; Chile; and then, you know, some of the smaller ones, too.

Q. Did Syngenta Crop Protection, Inc., do business in Latin America?

A. I don't know.

Q. Do you know of any Syngenta Crop Protection, Inc., products that were sold outside the United States?

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A. I don't know that, no.
Q. Do you know which Syngenta entity sold products in Brazil?
A. No, I don't know that.
Q. Do you know which Syngenta entity sold products in Canada?
A. Well, you know, I -- I do know the people, but I don't know the -- you know, the name of -- of the legal entity.
Q. You don't know the name of the company?
A. No.
Q. Do you know the name of the company, the Syngenta company, that sold product in Mexico?
A. No, I don't know the name.
Q. Did -- When you had this job for nine months in 2007, from January to October, did you have people from these countries who had -- Strike that.
Who did you work with in Canada from January 2007 until October 2007?
A. Names?
Q. Yes.
A. It was one individual that was covering the environmental safety needs. Last name Purdy, P U R D Y. I'm missing the first name. He has retired in the meantime.

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Q. And --
A. But he was the key contact for environmental safety in Canada.
Q. And when environmental safety filings were required to be done from January to October 2007 in the country of Canada --
A. Mm-hmm.
Q. -- how was that done?
A. Well, the Canadian affiliate would do those filings --
Q. Okay.
A. -- locally.
Q. Who would do the work that was generated necessary for the environmental testing for Canada?
A. The local work would be done locally by Mr. Purdy, so there is a local requirement in data to generate local data, environmental data, so he would commission that and he would do it in contract research organizations. And he would use -- And the work that was independent of location and make that part of the submission, as well.
Q. Okay. What's the other part of the component that wasn't done locally?
A. Yeah, I give you an example. And we do a soil study, we have to test mobility under field conditions,

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so that would be a test that would have to be done locally in the field.
In order to understand what you need to test for, you do a laboratory test where you investigate how it breaks down so that you actually do know what you have to look for in terms of degradation products, and that would be a test that is shared globally.
Q. So where would that test that was necessary to be done for that filing in Canada have been done?
A. Could have been done in any of the contract labs that does that testing for us. So it could have been done in a -- in a contract lab or in our own facility. I mean, we had -- back in 2007, we didn't have technical facilities anymore. So it would have been done in a contract lab that is competent to do the test. And these typically operate in the U.S., there are Canadian labs, as well, and there are European labs.
Q. Do you have your Jealott's Hill facility anymore?
A. In 2007 we had a Jealott's Hill facility, but we had discontinued testing in the UK by the end of 2006. So we have -- We shut down the laboratory facilities in the UK to do the testing.
Q. All testing?
A. All testing. All GLP testing was

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discontinued.
Q. G -- what's GLP?
A. That's the testing that's done under these good laboratory principals, which you need to follow in order to have an acceptable study, acceptable data set.
Q. What about for generating new products? Did you terminate that testing, too? Research?
A. No. That activity still continues in the UK.
Q. So how else would the global team support registration, for example, in Mexico?
A. Registration in Mexico would predominantly be supported out of the NAFTA organization. So the regulatory colleagues in Greensboro would be working with their regulatory colleagues in -- in Mexico to provide them the data and submission support to make the Mexican submission. And if there's -- If there was technical support needed from product safety, this would be done through the Greensboro team.
Q. How did your job change in the next -- How did your responsibility change in the next job?
A. The next job was head of product safety, NAFTA, which included now both the environmental and the human safety groups in -- in Greensboro. And the responsibility for support in NAFTA, in the three NAFTA countries. So that function was, then, human safety,

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which included the crop residues, the animal assays that I described earlier that we do to assess exposure to humans and -- and null effect levels to humans, and the environmental components, as well.
Q. And then your job changed again in January of this year?
A. That's correct.
Q. And what is it now?
A. So I'm now leading the global product safety function for Syngenta Crop Protection.
Q. And your responsibilities in that job?
A. Well, my responsibilities is to -- to oversee data development in support of generating safety profiles for our compounds in the regions. We operate in four regions. We have product safety units in the four regions to ensure that the right data are developed to proper quality, and that the right evaluations of the data allow us to make proper safety assessments, and then decisions for -- product promotion decisions, and finally for releasing products for sale in the markets.
Q. Let me ask one point -- We have a technical problem here.
How much time do you spend in Basel? Any?
A. Well, I will be spending more time in Basel once I move to Basel, which will happen next year.

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Probably have been to Basel two or three times this year, a week at a time.
Q. For how long?
A. A week at a time.
Q. A week at a time. I'm sorry, sir.
And you list that your current professional experience is with Syngenta AG?
A. Syngenta Crop Protection AG is my employer.
Q. Syngenta Crop Protection AG?
A. Yes, AG, that's correct.
MR. POPE: Are we talking about as of the first of the year?
BY MR. TILLERY:
Q. Yeah, since --
A. Beginning first of January 2011. So currently --
Q. You list -- Yeah, you list here on your CV at the beginning, first page, "Syngenta AG, Basel, Switzerland." Do you see that?
A. Yeah.
Q. Name and location, your current employment, Syngenta AG, Basel, Switzerland?
A. Yeah, this is incorrect.
Q. You're saying that's wrong?
A. That's wrong. I'm --

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Q. It's Syngenta Crop Protection AG?
A. I'm currently by Syngenta Crop Protection, Inc., in Greensboro. I will be employed by Syngenta Crop Protection AG in Basel beginning the first of January 2011.
Q. That starts January 1st?
A. 2011, yes.
Q. And your employment with Syngenta Crop Protection, Inc., will terminate?
A. Yes. Yes.
Q. And who made the assignment of your move to Basel?
A. The assignment was made by the head of crop protection development. Name? Do you want a name?
Q. Yes.
A. Gerardo Ramos.
Q. Where is his office?
A. His office is in Basel.
Q. Who does he work for?
A. He reports to the head of R&D, Sandro Aruffo.
Q. Who does -- I don't know the fellow's name that you said. I'm trying to read it.
A. Sandro --
Q. -- Ramos. Mr. Ramos, who does he work for?
A. You mean the employer?

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Q. Yes.
A. Well, I haven't seen his employment contract, but I would assume Syngenta AG in Basel.
Q. Okay. Will you be doing the same job in Basel as an employee of Syngenta AG that you're currently doing in the United States as an employee of Syngenta Crop Protection, Inc.?
A. Well, no. The role is different. You know, I do have successor here in the U.S. who will be doing the role that I have done as head of product safety NAFTA. And she is in place and has been operational since the first of the year.
My role will be in a global coordination of the programs as it is laid out in my role profile in overseeing, you know, all the sourcing activities for the teams worldwide.
Q. What is your job right now? Isn't it head of global product safety?
A. Yes.
Q. Right this second?
A. Yes.
Q. Now, so the NAFTA job is the one you had -- the last job, correct?
A. Yes, that's correct.
Q. So let's talk about the job you have now.

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Okay?
A. Okay.
Q. Will you be doing the same job you're doing now in Basel as an employee of Syngenta Crop Protection AG --
A. Yes.
Q. -- that you're currently doing in the United States as an employee of Syngenta Crop Protection, Inc.?
A. Yes.
MR. TILLERY: Let's take a one-minute break -- we don't have to leave -- so we can fix the technology here.
THE VIDEOGRAPHER: Going off the record. The time is now 10:59 a.m.
(A short recess was had.)
THE VIDEOGRAPHER: Going on the record. The time is now 11:03 a.m.
MR. TILLERY: Can you mark that as Exhibit 2, please. Thank you.
(Hertl Deposition Exhibit No. 2 marked as requested.)
BY MR. TILLERY:
Q. Can you identify Exhibit No. 2, please.
A. Yes. That's a relocation agreement -- localization agreement -- sorry -- signed by head of

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compensation relocation at that time, Mary Marsh, and myself on July 16th, 2002.
Q. And this is a relocation or a localization agreement?
A. This is correct.
Q. Just prior to this, who were you employed by?
A. I was employed by Syngenta Crop Protection, Inc., in Greensboro.
Q. Okay. So here it says, "We are pleased that you will be localizing to employment with Syngenta Crop Protection, Inc., effective August 1, 2002. You will be transferred from employment with your home country as of that date."
So the day prior, you were employed in your home country?
A. Well, I was on an international assignment between 1990 -- September 1997 and 15th of July, 2002.
Q. Okay.
A. But, you know, that international assignment did include, you know, all the compensation and benefits and pension conditions, I believe, that are commensurate with a local employment by Syngenta Crop Protection, Inc. So I did not receive any compensation from what used to be my home country in Basel.
Q. And with whom were you technically associated

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by employment at that time? Was there an entity with whom you were associated with employment in Basel?
A. I don't know that.
Q. You don't know?
A. I don't know.
Q. You don't know what the Syngenta entities had you listed as?
A. No, I don't know that.
Q. Who are Gary Dickson and Tobi Bosset?
A. Gary Dickson was my line manager at that point in time. He was the head of development, crop protection development.
Q. Where?
A. In Greensboro.
Q. In Greensboro?
A. In Greensboro. And Tobi Bosset did coordinate international assignments for the company, I believe, in HR Basel. So he's located in the human resources group in Basel.
Q. Bosset was?
A. Bosset was, yes.
Q. And do you know which entity he worked for?
A. I don't know that.
Q. Was there a -- What's a line manager, as you just used that term?

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A. What's a line manager? The individual that you report to on a day-to-day basis that sets your objectives for the year, does execute your performance evaluation and your performance appraisals.
Q. Did you have some other manager, other than a line manager?
A. At what time?
Q. Well, at any time.
A. At any time?
Q. Yes.
A. Well, I -- We did have -- Well, people that we worked with and were associated to in a functional management role.
Q. We're back to our functional role.
A. Yes.
Q. So you do know what "functional" means?
A. Well, if it's about coordination of test programs and the like, that's -- that happens with the functional management group.
Q. Now there's a functional line manager, right?
A. As I am in that role right now, so I have a functional, you know, association with the heads of product safety that operate in the regions and develop data for us, yes.
Q. And what's the difference between a line

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manager and a functional manager?
A. Well, the line manager is the direct reporting line. They do set the objectives. They, you know, do the performance evaluations. They look at individuals' performance and, you know, have all the duties and responsibilities that you do have as a manager versus to your employee.
Q. Is a functional manager sometimes referred to as a dotted-line reporting relationship?
A. Could be, yes.
Q. I see in a lot of documents references to dotted-line -- dotted-line reporting relationship. What does that dotted-line reporting relationship mean, if it doesn't mean functional manager?
A. Well, the dotted-line reporting responsibility -- I can only tell you about my case, so I don't want to generalize.
Q. Okay.
A. So --
Q. So in your case, are you the functional manager of people around the world?
A. Right.
Q. In your current job?
A. So -- Well, I am a functional manager of people around the world in my current job. So what I do

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with these is, in order to be able to do my role, we need to do the coordination of test programs that we do in support of our registrations worldwide. We do coordinate the sourcing of data that are generated in line with, you know, the legal requirements for product approval and continued product registration in the various markets.
And as I explained earlier, there are global components to it, pieces that can be used irrespective of where we use the market, and there are local and regional elements to it which are done in the accountability of the regions. But the coordination of the global programs, you know, I do as a functional manager with my functional reporting lines.
Q. So these people may have a direct reporting relationship with someone in their country?
A. Yes.
Q. And a functional-type of reporting responsibility to you?
A. Yes.
Q. And tell me who these people are.
A. Currently? Mine?
Q. Yes. The people who have a dotted-line or functional reporting relationship with you.
A. So this is -- in NAFTA, that's Patricia

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Malarkey.
Q. And she took your place in that job?
A. She took my place in that job.
Q. So she's in Greensboro?
A. That's correct. In Europe --
Q. Excuse me for interrupting you, sir. Do you know who she's employed by?
A. Syngenta Crop Protection, Inc.
Q. Okay. In Europe who reports to you?
A. It's -- As a functional reporting line, it's Phillip Botham. And he's located in Jealott's Hill.
Q. By whom is he employed?
A. I don't know. I mean, that's the same question that we had half hour ago.
Q. Right. He's employed by a Syngenta --
A. Syngenta.
Q. -- subsidiary in Europe?
A. I assume, yes.
Q. All right. And who else has a functional reporting relationship with you?
A. It's Rose Rodriguez in Sao Palo, Brazil. And it's Alex Yau in Singapore.
Q. And who is Ms. Rodriguez employed by?
A. A local entity Syngenta --
Q. Subsidiary?

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A. -- subsidiary in Brazil.
Q. Mr. Yau in Singapore?
A. Ms. Yau.
Q. Sorry.
A. Same applies here.
Q. Some entity of Syngenta?
A. Yes.
Q. Okay.
(Hertl Deposition Exhibit No. 3 marked as requested.)
BY MR. TILLERY:
Q. Handing you what's been marked as Exhibit 3 and ask you to identify that.
A. This is an e-mail sent by Joann Hernandez.
Q. Actually, if you look at the whole document.
A. Oh, yeah. Okay.
MR. POPE: Take your time, read the whole thing.
BY THE WITNESS:
A. Okay.
Q. These are a series of e-mails about a raise for you, right?
A. It looks like, yes.
Q. And the first one is signed or generated by Mr. Harry Swaine.
A. Yes.

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Q. And where was Harry Swaine?
A. Located?
Q. Yes.
A. In the UK.
Q. Okay. So he was asking Mr. Christoph Koelbing -- Who is Christoph Koelbing?
A. He is human resources in Basel, Switzerland.
Q. Okay. He was asking Mr. Christoph Koelbing in Basel about a raise for you, correct?
A. Yeah. That's what it says, yes.
Q. Okay. So we're clear, Mr. Swaine in UK had what relationship to you?
A. He had -- He was my functional manager.
Q. And he was employed by whom?
A. By some subsidiary in the UK.
Q. Not by Syngenta Crop Protection, Inc.?
A. No.
Q. Did you have a direct line manager ever send an e-mail asking for a raise at Syngenta Crop Protection, Inc.?
MR. POPE: Could I have that question back again.
(Record read as requested.)
MR. POPE: Listen to --
BY THE WITNESS:
A. I don't know.

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Q. The only one you're aware of is this one here?
A. I don't know the document. I've not been copied on any of those. So that's the first time I've seen that.
Q. Okay. So take a look at it, then, and see. I will represent to you -- you see this Bates number here on the bottom, where it says SYN 03157685?
A. Yes, I see that, um-hmm.
Q. These were documents supplied to us in this lawsuit.
A. Okay.
Q. From Syngenta entities.
MR. POPE: But you're not representing that he's ever seen this before.
MR. TILLERY: I'm not.
BY MR. TILLERY:
Q. I'm representing, however, that it's a true and accurate copy of something Mr. Pope gave me.
A. All right. I don't debate that.
Q. Well, here it shows that a Mr. Harry Swaine, who was your functional manager in the UK, asks somebody in Basel to give you a raise in the U.S., when you worked for Syngenta Crop Protection, Inc., correct?
A. Well, it looks like that, yes.
Q. Okay. And that raise was approved, wasn't it?

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A. Yeah, I have no reason to believe that this is not true. I don't remember it, but...
Q. You don't dispute that you got a raise?
A. I don't dispute it, yeah.
Q. And the raise was because of your new global role, wasn't it?
A. That's what it says, yes.
(Hertl Deposition Exhibit No. 4 marked as requested.)
Q. I'll hand you what's been marked as Exhibit No. 4.
A. Mm-hmm.
Q. Ask you to take a look at that. Okay?
A. Yep.
Q. What is this document?
A. This is a listing of annual objectives for myself for the year 2006, and it is a self-appraisal, which is my view on how I was doing against those objectives.
Q. And who does it list as your manager?
A. It lists Harry Swaine.
Q. Okay. Does it list him as your functional manager?
MR. POPE: Objection to the form of the question.
BY THE WITNESS:

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A. Well, the document says "manager."
Q. It says he was your manager. And at that time in 2006, where was Mr. Swaine located?
A. In the UK.
Q. Okay. And, again, he was employed by another Syngenta subsidiary, but you don't know the name of that subsidiary?
A. That's correct.
Q. Who was the line manager at exactly that moment?
A. My line manager?
Q. Yes.
A. Gary Dickson.
Q. Okay. And did you do another one of these performance management reports for Mr. Dickson?
A. No. He would probably have received the same performance management report.
Q. But it shows here that you gave this to Mr. Swaine, correct?
MR. POPE: Objection to the form of the question. I don't think it says that at all.
BY MR. TILLERY:
Q. Isn't that who you gave it to?
A. I don't recall.
Q. He was looking over your and approving your

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individual objectives and team objectives, wasn't he?
A. Well, that's correct, because it included teams in NAFTA as well as in Europe.
Q. Yes.
(Hertl Deposition Exhibit No. 5 marked as requested.)
BY MR. TILLERY:
Q. I'll show you what's been marked as Exhibit 5, sir, and ask you to look at that. Can you tell me what that document is?
A. This document is an e-mail dated August 18th, 2006, sent from myself to Harry Swaine in response to an e-mail I had received that same day with an attachment of my performance management form sheet including self-appraisal and manager appraisal.
Q. And you sent this to Mr. Swaine in Great Britain, correct, or England?
A. This is correct, yes.
Q. And this was, again, your performance management, correct?
A. Interim for 2006, yes.
Q. Right. And show me where you sent this to any other line manager at Syngenta Crop Protection, Inc.
A. He's the only recipient.
Q. Okay. And he is the only -- "He" being

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Mr. Swaine in England, correct?
A. Correct.
Q. And Swaine did the manager appraisal for you, didn't he?
A. Well, he did provide commands. Now, this is the interim for 2006, so I don't know how the final was applied.
Q. Well, here under oath today, are you suggesting that anybody else besides Mr. Swaine was doing an appraisal for you?
MR. POPE: Let's be clear, Steve, he's under oath like all the other witnesses are. There's no special part about your question there. He just told you this is an interim report.
MR. TILLERY: He can make the objections any way he wants.
MR. POPE: You didn't let him finish is the other thing.
Go ahead.
BY THE WITNESS:
A. I think the agreement was that this would be a consultative process between functional manager and line manager.
Q. So where is the consultation?
A. Well, I don't see it here.

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Q. Okay. The consultation you had with a manager was with Mr. Swaine, correct?
A. The written consultation I had with Mr. Swaine, yes.
Q. And the appraisal of what your plans on an individual and group objective were were done by Mr. Swaine, weren't they?
A. In written form, this is correct.
Q. Are you aware of the existence of any document, sir, that reflects any consultation with a line manager like that document?
A. I don't know.
Q. You're not aware of any?
A. Well, I don't know if they exist or they don't exist. I haven't looked for them.
Q. Well, if you don't know, then the answer is you are not aware of any; is that correct?
A. I do not know if they exist or not.
Q. Do you have any? Do you have any such document?
A. You know, I would have to look in my files to look for them.
Q. Do you remember ever seeing one?
A. An appraisal that I received from my line manager?

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Q. A document like that where you made a report to a line manager at Syngenta Crop Protection, Inc.
A. Sure enough, my last performance review was drafted by my functional manager and revised by my line manager and finalized.
Q. When are you talking about? Right now?
A. Well, that was, I believe, last year's, 2009.
Q. And which job was that?
A. That was as the head of product safety NAFTA.
Q. And it was drafted by you, revised by whom?
A. It was revision and inputs by my global head of product safety.
Q. Who was that?
A. That was John Doe.
Q. Okay. So let's reflect. Now we're on a different job than at this time.
A. Okay.
Q. Okay. Correct?
A. Yes.
Q. Okay. Let's go back to this job. The one I'm talking to you about.
A. Okay.
Q. Did you ever -- Do you remember ever seeing a document like that document where you reported to a line manager in Syngenta Crop Protection, Inc.?

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A. I -- I do not remember, but this doesn't necessarily mean they do not exist. I would have to check for it.
Q. You don't know of any?
A. I don't know of any.
Q. All right. If such a document existed at the time of your 2006 interim review, as far as you know, would that be the type of document that would be maintained by Syngenta Crop Protection, Inc., in the ordinary course of business?
A. Yes, it would be maintained.
Q. Okay. I'm representing to you no document like that's been produced to me. Okay?
(Hertl Deposition Exhibit No. 6 marked as requested.)
BY MR. TILLERY:
Q. Can you explain this document or identify it?
A. This is a -- I don't know what it is. I need to look at it. I've not seen that before. This looks like a status report from one of our administrative systems that speaks about my change to my new role in January 2010.
Q. Look on the very last page of that document. It says, "This is a temporary position to be shut down on February 1, 2010. No direct reports."

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A. Yes.
Q. What does that mean?
MR. POPE: Objection to the form of the question.
BY THE WITNESS:
A. The -- My relocation to Basel was originally planned for February 1, 2010, but had to be postponed for personal reasons.
Q. And the "no direct reports," what's that mean?
A. I don't have line reporting responsibility for anyone in Greensboro.
Q. Okay. And how long has that been the case?
A. You know, since, you know, January 1st, 2010.
Q. Does that mean you're not the line manager for anyone in Greensboro?
A. This is correct.
(Hertl Deposition Exhibit No. 7 marked as requested.)
BY MR. TILLERY:
Q. If you'd look at that same document, if you go to page 2 of that document, which is exhibit -- What is the exhibit number you're holding, sir?
A. 6 [sic].
Q. 6. Thank you.
Take a look at this and tell me if you can identify it for me.

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A. This is another status work document generated by one of our administrative systems.
Q. And if you'd look at the second -- or I -- I think it's actually the third page of the document, it's the one Bates No. 661 at the end, at the bottom.
Do you see that? Lower right-hand corner. Do you see that Syngenta, SYN 03 --
A. Yeah.
Q. Okay.
A. I see that, yeah.
Q. Yeah. And --
MR. POPE: Which page are you looking at?
MR. TILLERY: The last page.
BY THE WITNESS:
A. The last page.
Q. And that's -- Claire Bladen sent this e-mail?
MR. POPE: But not to this witness.
BY MR. TILLERY:
Q. Who is Claire Bladen?
A. I don't know.
Q. And --
A. I don't know her.
Q. And what is CHBS?
A. That's Basel.
Q. That's Basel?

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A. Yeah.
Q. And -- and Don Isley is USGR?
A. That's Greensboro.
Q. And the communication, Don says, "As discussed, we've converted Peter's approved package from [redacted] Swiss francs to USD using the average over the six-month period June to December of 2009."
A. Mm-hmm.
Q. Correct?
A. Correct.
Q. "Please could we ask you to implement this." Correct? So this is a communication coming from Basel to the U.S. about an increase for you?
A. Correct.
Q. Is that correct? Okay.
And that's February 4, 2010, correct?
MR. REEG: February 24.
BY MR. TILLERY:
Q. February 24th.
A. 24th.
Q. Yes.
Who approved that package?
A. The Swiss franc, [redacted]?
Q. Yes.
A. I don't know who approved it.

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Q. Okay. So you don't know who --
A. I don't know.
Q. -- gave you your raise?
A. No, I don't.
MR. TILLERY: All right. We're going to go off the record right now.
THE VIDEOGRAPHER: This marks the end of Videotape No. 2 in the deposition of Peter Hertl. The time is now 11:36 a.m. Going off the record.
(Discussion off the record.)
THE VIDEOGRAPHER: Going on the record. This marks the beginning of Videotape No. 3 in the deposition of Peter Hertl. The time is now 11:41 a.m.
(Hertl Deposition Exhibit No. 8 marked as requested.)
BY MR. TILLERY:
Q. Mr. Hertl, the reporter has marked a document as Exhibit 8. Can you look at that and identify it for me, please.
A. It is a -- about 25 pages of a document that shows on the title page a -- "The Vision of Syngenta." And then three bullets underneath.
Q. I'm going to ask you some questions about this. You're listed throughout this document, and we're going to go through it. If you aren't familiar directly

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with it, if you want to look at it and familiarize yourself with it for a second. I'm going to ask you some questions. Okay. You've been through it?
A. Yes.
Q. What is this?
MR. POPE: Objection to form unless you determine whether he's ever seen it before.
BY MR. TILLERY:
Q. What is this?
A. This looks like a pretty comprehensive presentation of operational scope, organizational setup, operational principals for what used to be the health assessment and environmental sciences function of when Syngenta was formed in 2000. So that probably goes back to 2000, 2001.
Q. We were told, just so you know, by Mr. Reeg's office that produced this, that the date of production was April 5th, 2001, if that helps.
A. Yes.
Q. That's consistent with what you said?
A. Yes.
Q. Okay.
MR. POPE: You don't mean the date of production, you mean the date you would -- the date the document was created?

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MR. TILLERY: That's what we were told.
BY THE WITNESS:
A. Mm-hmm.
Q. Okay?
A. That seems --
Q. Is that consistent?
A. It's consistent.
Q. All right. Let's go to the page of this document, it's the sixth page where it says, "HAES organization" at the top?
A. The organizational chart?
Q. Yes. And the Bates number ends in 56.
A. Yes.
Q. Okay. And at that time the head of -- And what does HAES stand for?
A. Health, assessment, and environmental sciences.
Q. Okay. Is this a program that is still used at --
A. No.
Q. -- Syngenta today?
A. No.
Q. How long did this program remain intact?
A. Until Dr. Smith moved on to become the head of global development for Syngenta. And I do not remember

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the date or the year.
Q. Is it now called global product safety?
A. Well, global product safety is one of the organizations that does provide the same services to the organization that the HAES organization did ten years ago but has a very drastically different structure and footprint.
Q. Who is Dr. Smith?
A. Dr. Smith used to lead the HAES function until he was promoted to global head of development. And he had that global head of development role in Basel until he was replaced by his successor, umm, at some point in time which I don't remember.
Q. When this chart was created in April 5th, 2001, where was Dr. Smith located?
A. He was located in CTL in Manchester, close to Manchester in the UK, Alderley Park.
Q. And by whom was Dr. Smith employed, directly employed?
A. I don't know that.
Q. It was a Syngenta subsidiary?
A. I would assume, yes.
Q. Okay. CTL, what's that stand for?
A. That was the central toxicology laboratory. So it was one of the test facilities within that HAES

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organization.
Q. And CTL was where?
A. In Alderley Park, which is close to Manchester in the UK.
Q. Now, let's go down and look at this organizational chart at that time. Over on the far left, there was a group headed by J. Doe, product management.
A. Correct.
Q. Where was Mr. Doe?
A. Located?
Q. Yes.
A. He was located at the same site, CTL, Alderley Park, in the UK.
Q. And below him are listed -- And what is -- What is Mr. Doe's full name?
A. John Doe.
Q. Okay. And below him is a category of people that includes Mr. Joseph, Mr. Rose, Mr. Hackett, Mr. Lewis, Mr. Kobel, and Mr. Wilks?
A. Correct.
Q. Where was Mr. Hackett?
A. In Greensboro, U.S.
Q. And where were these other people?
A. Mr. Joseph was located in Jealott's Hill, UK.

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Q. Okay.
A. Mr. Rose was located in Alderley Park, Manchester. Mr. Hackett we mentioned already. And Mr. Lewis was located in Jealott's Hill, Mr. Kobel was located in Basel, and Mr. Wilks at that time was located in Alderley Park in Manchester.
Q. What was the -- What was the purpose of this organizational chart?
MR. POPE: Objection to the form of the question.
BY THE WITNESS:
A. The organizational chart is an outline of the health, assessment and -- health, assessment, and environmental sciences organization for Syngenta in April of 2001.
Q. Okay. That product management role that you have there on the far left, what was that role? If you could briefly define it.
A. Very briefly, these -- one, two, three, four, five -- six people were coordinating test programs across the product safety sites in order to deliver a comprehensive product safety data set in support of our business projects. So they had project responsibility. Each individual had one or more projects they were responsible for coordinating.
Q. And what about the business management cycle?

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A. Business management cycle had two responsibilities, one was to sell services of the tox facility in Alderley Park, also sell services to other clients, non-Syngenta clients. So it was a sales organization of toxicology services to competitors, pharmaceutical companies. And they were also involved in administering the outsourcing process so that the studies we contracted to external providers, which was very limited at this point in time.
Q. You have -- the next two categories are Health Assessment 1 and Health Assessment 2. What were they?
A. These were -- We had two experimental facilities doing the animal tests at that time. Phil Botham was the head of the animal test facilities that were located in Alderley Park, Manchester. Gian Winkler was heading the organization, the laboratory, that was located in Stein, Switzerland, which is about 30 minutes from Basel. So it was a toxicology testing facilities, and we had two of those.
Q. Okay. And then the next heading is "Global Risk Assessment." A group that you were located at?
A. Correct.
Q. And the head of that was Mr. Dickson?
A. Yep, located in Greensboro.
Q. And who is -- Where is Mr. Bray?

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A. It's actually Ms. Bray.
Q. Ms. Bray.
A. She's in Greensboro.
Q. And -- and Mr. Pastoor?
A. In Greensboro.
Q. And Mr. Ross?
A. In Greensboro.
Q. And you were there in Greensboro, as well?
A. That's correct.
Q. Okay. When -- you have these full names, if you wouldn't mind. What is Ms. Bray's first name?
A. Leslie Bray.
Q. And Mr. Ross?
A. Richard.
Q. Okay. And back a little bit you had a J. Parker. What is that name?
A. John Parker.
Q. John Parker. Okay. And then there's another heading by a Mr. Swaine, "Dietary Safety." That's --
A. That's correct.
Q. -- the next one?
Who is that?
A. Harry Swaine located Jealott's Hill, UK.
Q. Okay. What was the dietary safety? Is that what you've explained to us in the deposition?

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A. The dietary safety function was -- They were doing residue data generation, metabolism studies, growth and animal metabolism studies, and livestock metabolism studies, and dietary risk assessments.
Q. In Europe?
A. In Europe. Yep.
Q. And all of these people, where were they located, below him?
A. Roland Dieterle in Basel. We did have a test facility in Basel at that point in time. Michael Kaethner in Basel. Mike Skidmore in Jealott's Hill. Terry Clark in Jealott's Hill. Kim Travis in Jealott's Hill.
Q. The work that Mr. Swaine was doing in dietary safety, you said those people were for Europe. Was it dietary safety just working for products or molecules sold in Europe? Or was there dietary safety work they were doing on a global basis?
A. The metabolism studies and the livestock studies were used globally. The residue studies were used only in Europe.
Q. Okay. The next is an ecological science group?
A. That's correct. Peter Campbell, located in Jealott's Hill; Steve Maund, located in Jealott's Hill;

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Marco Candolfi, located in Basel; Tim Kedwards located in Jealott's Hill; and Frank Dorobek located in Basel.
Q. And they were doing a global work. Was that done?
A. They were doing ecological testing. We did have test facilities both in Jealott's Hill and in Basel. And they -- Part of the studies that could be used globally were used globally. But, again, it was split program for -- global pieces were used globally, and then they did do the pieces that were necessary for European support.
Q. And the next is "Environmental Safety"?
A. Environmental safety. Chris -- Chris -- Chris -- Christian d'Hondt located in Basel. Albrecht Flaenzel, located in Basel. Mike Earl, located in Jealott's Hill. Enrico Kiefer located in Basel. And Stefan Sack located in Basel.
Q. And the last one is --
A. Ian Kimber, located in CTL, Alderley Park, close to Manchester. George Orpha -- Orphanides, Alderley Park. John Ashby, Alderley Park. R. Deaman, I don't recall that person. And Mrs. Roberts, I don't recall her first name. Ms. Roberts was located in -- in Alderley Park. And I don't recognize Deaman.
Q. And what was the research division?

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A. They did very specific mechanic scientistic research for human effects assessment.
Q. To support all of the different products?
A. To -- Well, to -- mainly to support the data generation that was done in the toxicology function in Basel and in -- and in Alderley Park.
This was -- If -- If you may, this was a new methods development unit. So how could we -- how could we do better data generation, scientifically more solid data generation, for future questions.
Q. But this was being done on a global support basis?
A. Well, the data would typically be published in scientific journals and be used globally, but they did not constitute any specific studies that were necessary for product registration. It was pure -- I mean, you could call it a capability development investment.
Q. Go to the next page where it says, "HAES expertise and resources."
A. I am.
Q. Okay. Can you see there? And it says, "Health AP." What does that mean?
A. AP means -- So these are the sites across. So AP stands for Alderley Park.
Q. Okay. What does it mean there's an X there?

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A. That they do have expertise and resources and data generation respective relative to human health assessment.
Q. Okay. And then in the next one is Jealott's Hill?
A. Doesn't have that. Basel, BL stands for Basel, did have it. SN stands for Stein. That's the site of the second tox laboratory that's 20 minutes outside of Basel. They had it.
Q. Okay.
A. GO stands for Greensboro. They had it. And we had all expertise in contracting studies.
Q. Okay. The next page, if you would look at that. "HAES operating vision," what does this mean?
A. Well, it is what you're aspiring to reach as an organizational goal for the function.
Q. If you look to the third bullet point, "Delivering one global technical plan for new work synthesized from regional business needs," was that one of the goals?
A. Yes.
Q. If you'd go to 22461, which is a couple of pages later.
A. Yes.
Q. And you see that chart?

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A. Yes, I do.
Q. Just very briefly, the head of the chart was John Doe, and he was at the UK?
A. That's correct.
Q. And then on the left side is Mr. Hackett. He was at Greensboro?
A. That's correct.
Q. And the human was -- safety manager, Mr. Kobel, was where?
A. Basel, Switzerland.
Q. Basel. And then the products medical advisor, Mr. Wilks, was where?
A. At Alderley Park in the UK. Mr. Wilks at some point in time moved to Basel, Switzerland, and I don't recall when he actually did move.
Q. Okay. And then the human safety assessment is where?
A. In Greensboro.
Q. And then below that, the exposure assessment is Greensboro?
A. Greensboro.
Q. And then under human safety manager, it's Basel and Alderley Park?
A. Correct.
Q. Okay. And then there's a location, operator

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safety, Fernhurst?
A. Yes.
Q. Where is that?
A. In the UK.
Q. Okay. And then below that, operator safety, Basel?
A. Basel.
Q. Let's go to the next page. When the mandate from Lewis Smith came here, at the top, where it says "Mandate from Lewis Smith," do you know where he was? Was he at his same employment in Jealott's Hill -- I mean, Alderley Park?
A. He was in Alderley Park, yes.
Q. Alderley Park?
The last bullet there says, "Mr. Smith was mandating that these all different components of this organizational chart encourage global use of expert resources." What does that mean?
A. Well, it does mean that -- If you look at product safety or HAES as one of the functions that were replaced later on by product safety, it's a multidisciplinary activity. You -- you do have people that are toxicologists, you do have -- within the toxicology group certain specialties, like a pathologist, for example. You do have statisticians;

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you do have environmental engineers. So it's a very broad range of individual experts.
And there is limited capacity of expertise available. So if you look at -- at my function today, we have one pathologist within the global products safety organization. So wherever a pathologist expert piece is needed, this is the individual we use to display that expertise or display that expertise irrespective of where it is needed.
Q. And irrespective of which company needs that expertise?
A. It's driven by the need, yes.
Q. And wasn't Mr. Smith doing that same thing here? He was encouraging people. He was -- wasn't encouraging, he was mandating, according to this document, that there be a use of the expert resources that were available in the various different Syngenta subsidiaries around the world?
A. Yes. And, you know, clearly this is a vision document. So --
Q. Did you --
A. It was in aspiration that we worked against.
Q. And you've accomplished that, haven't you?
A. Well, over the last ten years, we have --
Q. Yes.

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A. -- getting closer to accomplishing it, yes.
Q. Let's go to 2465. And that's another organizational chart portfolio management. What does "portfolio management" mean?
A. Portfolio management means really the -- the sum of all the projects that we do within the HAES organization in any given year.
Q. Okay.
A. So it's a totality of -- of projects.
Q. So if you look at this document, the head of product management was John Doe. Excuse me. And he was in the UK?
A. Correct. Alderley Park.
Q. All right. And on the far left, there is an R. Joseph. Where was he from?
A. Jealott's Hill, UK.
Q. Okay. And then go across the line and tell us where these people were and the headings, real quickly.
A. Robert Joseph, Alderley Park, UK; Patrick Rose, Alderley Park, UK; Dennis Hackett, Greensboro; Frazier Lewis, Jealott's Hill, UK; Rona Kobel, Basel; Martin Wilks, Alderley Park, or potentially Basel, depending on when he moved.
Q. Okay. Is each of these individual groups responsible for projects relating to the description at

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the top?
A. This is correct, yes.
Q. If you could move ahead to several pages to the next document, which is 22475, and tell me what is represented in that diagram?
A. This is a pictogram of an -- an HAES active ingredient team.
Q. What's "active ingredient" mean?
A. Active ingredient means one of the chemicals we're developing that might be in one or more of our products.
Q. Okay.
A. So this typically would be a Stage 3 compound, one of the chemicals. Once it is in the markets, this might be part of our product.
Q. Stage 3?
A. At Stage 3 it's only one chemical.
Q. All right. Let's, if you would, walk me through this particular diagram and how it works.
A. Okay. We had four disciplines, which are the -- the outer -- outer most bubbles, which are labeled "Technical experts in health and dietary and ecology and environment."
Q. And if I could interrupt you, when you say "technical experts," what do you mean there?

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A. These are individuals that have technical -- specific technical expertise in how to generate data and to do studies to develop data in the regions of -- needed for health assessment, needed for dietary exposure assessment. This would be the residue data needing for -- needed for ecological risk assessments and for environmental fate assessments.
Q. Would these be in-house technical experts?
A. These would be -- would have been at that time in-house technical experts in 2001.
Q. So these would be people employed by one of the Syngenta entities -- one or more?
A. Yes.
Q. Okay. Go ahead.
A. So then we have the second ring is labeled "AI specialists" and has the same technical denomination to it. So within the functions we had people specializing on certain active ingredients. So there was a specialist for estmatolozol (phonetic) which is one of our herbicides, that specialized on the dietary, for example, on the dietary exposure component of it.
So they knew for this specific discipline most of the data that had been generated in support of that product safety profile. So you had four of those. And these four specialists were working with the AI lead to

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define the program that was needed to deliver continued support for the AI under question.
Q. And there's a little arrow that says RDT, PLT, R&T project. What does that mean?
A. I cannot tell you what RDT means. Simply because I don't recognize the acronym. It's ten years ago, and we don't have it anymore. PLT was a product leadership team that typically would run a project that -- that contained not only the product safety piece of it, but also the regulation, biological, and manufacturing parts of the project. And R&T projects were early stage research and technology investigative projects which needed input.
THE REPORTER: Which needed what? The end of your sentence.
THE WITNESS: Which needed input.
BY THE WITNESS:
A. Which needed technical input from product safety.
Q. Is that RDT regulatory development team?
A. I don't know. I don't know.
Q. Go to the next page. The question is, how do we bring in the regional dimension. And it says there's one -- the plan was to have one global active ingredient lead, correct?

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A. Correct.
Q. And that would be a person, an individual, correct, assigned?
A. It would be an individual, yes, correct.
Q. And would that person be assigned to a particular molecule or an active ingredient?
A. To -- to one or more.
Q. One or more?
A. One or more, yes.
Q. But would -- would the active ingredient only have one lead?
A. The active ingredient would only have one lead, that's correct.
Q. Okay. And that one active ingredient lead would take the global lead and is the standing member of the HAES active ingredient team?
A. Yes. On the previous slide, that would be the same person, the AI lead that you see in the center.
Q. And how were the active ingredient leads selected?
A. Well, I -- I cannot speak to that because I didn't do the selection.
Q. Who did it?
A. John Doe, who was responsible for the -- for the function.

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Q. Were the active ingredient leads from all around the world of Syngenta entities?
A. They were, yes.
Q. And give us some examples of leads from, for example, England?
A. Well, there was, you know, Patrick Rose, you saw his name on one of the previous slides, would have been one of the active ingredient leads from England.
Q. Go to 465, if you would. It's back up a little ways. I think we looked at this one briefly.
A. Yeah.
Q. Okay. Do you see it says "AI lead" on this exhibit, on -- There's an Ed Pilling, a J Markle --
A. Yeah.
Q. -- B. Swaine --
A. Yeah.
Q. -- M. Mills?
A. Yeah.
Q. Where are these people from?
A. These people are from -- Patrick Rose is, you know, the one -- name I just gave you and previously. He was managing the team of two. Ed Pilling was reporting to him. So Patrick did have some responsibility in that. These people are -- Ed Pilling, at that time, was in Jealott's Hill, UK.

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Do you want me to go through the full list?
Q. I mean, with -- Is it -- Without spending the time to do it, is it --
A. Okay.
Q. -- safe to say they are basically representative of different Syngenta entities throughout the organization of --
A. That's correct. We had people located in Greensboro. We had people located in -- in UK sites. We had people located in Basel.
Q. Right. And then if you'd go to Exhibit 2478. Just briefly, explain this exhibit to me. There's a NAFTA team and an EU team.
A. Correct.
Q. If you can explain how this works in -- in conjunction with their input to the AI leads?
MR. POPE: How it worked in 2005 you mean?
BY MR. TILLERY:
Q. Yes.
A. 2001.
MR. POPE: 2001. Excuse me.
BY THE WITNESS:
A. 2001.
Q. How long did this process last?
A. Less than two years.

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Q. And then it was replaced by what?
A. It was replaced by a new organizational setup which dissolved this whole, you know, HAES projects team because it did not work.
Q. And why didn't it work?
A. Because the AI leads could not deliver the role as they were expected to. The task was too big. It was too complex.
Q. Okay. And what was it replaced with?
A. It was replaced by giving responsibilities back to the tactical functions to -- to build up the project plan and deliver the project plans in the respective units.
MR. TILLERY: Tell me when you want to take a break.
MR. POPE: It's totally up to you, Steve.
THE WITNESS: Do you have a question to that specific one that we looked at already?
MR. POPE: I'm sorry; he's ready to move on.
THE WITNESS: Okay.
MR. TILLERY: Yes. Yes. Why don't we do this. Why don't -- it's 12:15. Why don't we take a brief -- I don't care how long.
MR. POPE: 45 -- 45 minutes?
MR. TILLERY: Yes, until 1:00. Yes.

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THE VIDEOGRAPHER: This -- this marks the end of Videotape No. 3 in the videotaped deposition of Peter Hertl. The time is now 12:16 p.m. Going off the record.
(A lunch recess was had.)
THE VIDEOGRAPHER: Going on the record. This marks the beginning of Videotape No. 4 in the deposition of Peter Hertl. The time is now 1:01 p.m.
BY MR. TILLERY:
Q. In the document which is marked, I believe, as Exhibit 8 in front of you, sir, you were looking at some pages, different pages. If you'd look at 2478. I had directed your attention to that earlier.
A. Yes.
Q. Now, this is the group you said that was -- Strike that.
This is the organization you said that no longer is in effect?
A. Well, not only this one, also the ones on the previous slides. This whole HAES products group that we had been talking about for quite some time, existed for less than two years.
Q. Okay.
A. Yeah. Which would include the AI lead on that Exhibit 2478, the AI lead role, which was part of the

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products, HAES products, group.
Q. And these people, this AI specialist health, AI specialist dietary, at the time that these place -- that this organization was in place, who were these people heading up these groups?
A. This -- The people that you have in this AI specialist bubbles, they were not heading up groups. They were people that were part of the NAFTA -- you know, in the top line, of the NAFTA health functions.
So that would be a team member, which would have been in the NAFTA Greensboro organization in the toxicology group. It would be an individual in the dietary function in Greensboro, an individual in the environmental function in Greensboro, and the ecology function in Greensboro.
Q. And then likewise the EU would have been from where?
A. People mainly -- Well, they would come from three sites, which would include CTL, Alderley Park in Manchester, Jealott's Hill in the UK and Basel.
Q. Okay. If you go to the next page, if you could briefly explain this one to me, as well.
A. All right. This is a pictogram that displays schematically how we build up the work program for the year and the product safety component of it. So what

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you typically have is a -- you know, a business proposal for a development project, which you do not see on the pictogram because there are no product safety projects without a business project -- project supporting them.
Q. Before you go on, this is Syngenta 02022479, isn't it, sir?
A. That's correct.
Q. All right.
A. That's correct.
Q. I'm sorry. Go ahead.
A. So yet -- let me say again, we have an annual project proposal process, which involves support needs from various functions, product safety being one of them. These projects are scoped. We do a business case analysis.
THE REPORTER: A business what?
THE WITNESS: A business case analysis.
BY THE WITNESS:
A. So it's a reasonable project to do from a business perspective.
They are scoped in terms of the tactical elements that they need in order to be completed successfully, and product safety contribution is part of that list of tasks that are needed.
Then these projects are prioritized and

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implemented based on the funding that's available to fund those projects in any given year.
Q. Who proposes the projects?
A. They come out of the business functions in the organization.
Q. When you say "business functions" --
A. Yeah.
Q. -- what does that mean?
A. Well, these are functions outside of the product safety organization. So this would be the marketing and sales organization in the regions, and globally if it's an AI development project. But it would be the marketing and sales organization.
Q. It would be the business end of --
A. The business end. They would -- they would -- I give you an example. They would say, with we want -- We need a new corn herbicide mixture. And -- which controls certain weeds that we don't control. And a business case would be developed how it could be delivered. And then it would be costed. And product safety costs would be a part of that project.
Q. And who would decide the funding for the entire project for the entire project?
A. For the -- for the entire project would be decided -- if it's a global project, would be decided by

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the portfolio management group and, you know, the management organization in -- in Basel. If it's a regional project, it would be decided by the region.
Q. Who would prior -- prioritize it on a global funding basis?
A. The -- the global projects are prior -- prioritized by the global head of development in conjunction with the global marketing function. And the regional projects, similarly in the region. So the regional head of development in conjunction with the regional marketing function.
Q. Go to the next page, which is Syngenta 02022480. I think there's actually two pages to this.
A. Yeah.
Q. And this was a document where there were active ingredients requiring technical plans?
A. Yes.
Q. And in the second category, selective herbicides, mesotrione is listed?
A. Yes.
Q. And then fluorotyrosines, including atrazine, is listed below?
A. Yes.
Q. What does it mean that this particular

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selective herbicide required a technical plan?
A. Well, it would mean that there was a significant amount of work to be done for that specific active ingredient, you know, in the near future. Or that looks at the work that you would need to do in the next year or two.
So in 2001 this would have meant that in addition to the new active ingredients -- and I don't quite recall which ones were still in Stage 3 -- but there were a number of active ingredients that were active reregistration, and they would have a work program to be developed.
Q. In 1997 when you came to America in September and started working for --
A. Mm-hmm.
Q. -- Novartis Crop Protection?
A. Mm-hmm.
Q. In terms of the management structure of Novartis Crop Protection, how has that changed in a general way with the way that the operation is conducted today?
A. For product safety?
Q. Actually, for the overall management of the operation.
A. Well, I -- You know, I really can only talk to

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the product --
Q. The product safety --
A. -- safety component of it.
Q. -- component of it?
A. Because I only work in the product safety functions.
Q. You wouldn't be familiar with the rest of the operations in terms of --
A. I would not be familiar with that, no.
Q. Okay.
THE REPORTER: Just a reminder to speak one at a time.
THE WITNESS: Sorry.
(Hertl Deposition Exhibit No. 9 marked as requested.)
BY MR. TILLERY:
Q. The reporter has marked a document as No. 9. Tell me what that document is, please.
A. It is a printout of, it looks like, a presentation entitled "Environmental Fate," March 2006.
Q. If you go to page Syngenta 03135185.
A. Yes.
Q. And look at that box at the top. This is crop protection development?
A. This is crop protection development, yes.

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Q. What does that mean?
A. The -- That's the crop development protection function, which is led by the head of crop protection development located in Basel.
Q. Okay. And who is in this very top head?
A. I believe that reads Ralf Furter. You can't read it very well.
Q. And he reports to the head of R&D?
A. R&D.
Q. And chief operating officer?
A. Officer for crop protection, yes.
Q. Okay. And these heads below are which, if you could read them for me?
A. They are health assessment, John Doe. They are environmental sciences, vacant. There is CP development business management, John Parker; global regulation affairs, John Street; stewardship, Rich Brown; development portfolio, Jasper Barnes; issue management, Georg Diriwachter; global field support, Franz Doppman; and technical management, Klaus Gehmann.
Q. Where were these people from?
A. Do you want me to go through it one by one?
Q. Well, let's start off with the head of R&D, where was he from?
A. Oh, the head of R&D at that point in time was

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David Lawrence, located in, I believe, Jealott's Hill in the UK.
Q. Okay. And the chief operating officer?
A. Was John Atkin.
Q. Okay. And he was at --
A. Basel.
Q. In Basel. And at Syngenta Crop Protection AG? Is that where he was? Do you know?
A. I don't know.
Q. Okay. And -- and let's look at the other people. Were -- were these people from Basel and Europe?
A. John Doe, UK, Jealott's Hill. John Parker, in 2006, I think that was -- Sorry. I misspoke. 2006, that is -- John Doe still would have been in Alderley Park in Manchester, UK; John Parker, Alderley Park, Manchester, UK; John Street, Basel; Richard Brown, Basel; Jessica Barnes, Basel; Georg Diriwachter, Basel; Frank Dorobek, Basel; Klaus Gehmann, Basel.
Q. Okay. Let's go to Syngenta 03135188. Do you see "Global Resource Distribution"? Can you explain that document to me, please.
A. This is a breakout into areas of expertise within the teams in Basel, Greensboro, and Jealott's Hill, within the subteams of the environmental fate

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function. So what you see across the top is a listing of sites: Basel, Greensboro, Jealott's Hill.
And then you have going down vert -- vertically, the three skill sets, one being ecochemistry, that's a specialist discipline; one being environmental residues; another one, specialist; and then we have environmental risk assessment and modeling. And in the fields that make up the matrix, we have a number of experts at the various sites listed.
Q. Is there a document similar to this that would describe the global product safety arm that you head now?
A. I don't think so, no.
Q. And if we were going through and -- and doing a similar analysis with respect to your department?
A. Yes.
Q. I'll call it a department.
A. Yes.
Q. Where would the people be?
A. Well, the department includes more than those three skill sets. But roughly we had -- We would have about 140 people in Jealott's Hill, in a number of skill areas which include these three, but there would be more. We would have about 80 people in Greensboro, which are spread out over similar skill set areas. We

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would have about 50 in Research Triangle Park in Raleigh, which --
Q. I'm sorry, in where?
A. In Raleigh, North Carolina.
Q. Okay. And who do those people work for?
A. They work for, you know, Syngenta. I don't know the legal entity.
Q. And what do those people -- What is that facility in Raleigh?
A. They do support seeds and traits development activities.
THE REPORTER: They support?
THE WITNESS: Seeds and traits --
THE REPORTER: Thank you.
THE WITNESS: -- development activities.
BY THE WITNESS:
A. And do product safety data generation for that part of the product portfolio.
Q. Seeds and --
A. Seeds and traits.
Q. Traits. So it's on the seeds side of the business?
A. It's on the seeds side of the business.
Q. And who is the head of that group?
A. Trish Malarkey.

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Q. What is Trish's title?
A. Head of product safety, NAFTA.
Q. And she is at which entity?
A. She's an employee of Syngenta Crop Protection, Inc., in Greensboro.
Q. But she heads up the Raleigh group?
A. Yes. There are more than these 50 people in Raleigh, but she manages the Raleigh group of these 50 employees, about 50 employees.
Q. All right. And where is this facility in Raleigh?
A. It's in Research Triangle Park, Cornwallis Drive.
Q. Okay. How -- how long has the facility been there?
A. I don't know the exact year, but since the '70s.
Q. And what is the type of work they do? The -- not the whole group --
A. Yes.
Q. The -- the group that's within the umbrella that you head globally.
A. Yeah. They do traits, characterization.
Q. Traits --
A. Traits --

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Q. -- characterization?
A. -- characterization work.
Q. Can you explain that to a lay person what that means.
A. Yes, we -- So we -- We -- One of our products lines are traded seeds. So these are seeds that contain genetically modified organisms and express a certain property as part of the genetic made -- makeup they have been -- that has been bred into them.
So the -- the traits express insecticides, so they're protected against insecticide attack. Another trait that they express is they're herbicide resistant so that you can treat them with a herbicide that they -- that otherwise would not have been able to be treated with because they would suffer from a, you know -- you know, a plant photo synthesis effect.
What the group does is they look at the traited material and confirm that the expression of the proteins, these active principals are expressed as proteins, that the expression of the proteins in those plants is consistent.
When you plant the crop in different geographies, when you have the trait in different gene lines, so they look for consistency of biology effect. And they look at what we call agricultural similarities.

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So they confirm that a traited crop in its makeup and nutrient content is no different from the untraited crop that was used as a starting point.
Q. And they do their work under the direction of this woman -- I can't remember. You said Trish?
A. Yes. Patricia Malarkey, that's correct.
Q. What is her title?
A. She's head of product safety, NAFTA.
Q. So she took your job?
A. Yes.
Q. What was her job before you left head of product safety, NAFTA?
A. She was portfolio manager, corns, for the seeds organization.
Q. Is the operation that you just described in terms of Patricia Malarky's responsibility, still in existence today?
A. Yes.
Q. Okay.
A. And that organization became part of global product safety on the first of January 2010. So that's a very recent development.
Q. And where was it before then?
A. Well, localized, it was at the same site, Research Triangle Park, Cornwallis Drive, it was part of

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the Syngenta biotechnology organization.
Q. And Syngenta biotechnology organization is located where?
A. In Research Triangle Park, North Carolina, Cornwallis Drive.
THE REPORTER: Could you spell the city in North Carolina, please.
THE WITNESS: Research Triangle Park.
MR. POPE: Research Triangle --
THE REPORTER: Research Triangle Park?
MR. POPE: -- Park.
THE WITNESS: Park.
THE REPORTER: Thank you.
THE WITNESS: It has a zip code and an address.
THE REPORTER: And it's Cornwallis Drive?
THE WITNESS: Yes, Cornwallis Drive.
BY MR. TILLERY:
Q. All right. You were describing for me the groups in this overall umbrella.
A. Yes.
Q. And -- when we got side tracked a little bit. If we could get back to this, you had described groups in Jealott's Hill, and you described groups in -- in the U.S. And where else -- what else would be included within this group?

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A. So Jealott's Hill, U.S., we have covered. We are currently in the phase of building up a group in Sao Paulo, Brazil. This is ongoing, as we speak. And we are planning to build up a small group in Singapore. Again, that's a project that's ongoing.
Q. And who will the heads of those organizations be?
A. The respective heads of product safety in those regions, which I mentioned earlier.
Q. If we could go back to Syngenta number at the bottom right-hand Bates No. 03135185. And this is the group that you had identified before.
Can you explain each of these development functions.
A. Start with the left-hand corner. Health assessment, managed by John Doe, is responsible for data generation that allow it to assess potential risks to humans, so that they're accountable for all those studies that are being done to allow an assessment to be developed.
Environmental sciences, that's the same group that was responsible for the environmental component of it. And we have covered that previously.
CP development business manager, John Parker. John Parker's group was responsible to coordinate and

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organize outsourced activities across all the development functions. So there were -- These -- But these were mainly or almost exclusively activities that had to do with data sourcing or started sourcing for the two safety product functions through third-party contract research organizations.
We have global regulatory affairs. This role supports global regulatory strategies for global AI development projects when you have a new chemical that goes into multiple markets. And coordinates also regional support activities for registration or reregistration with the regional leads that exist in the four regions. So you have regional units for those regulate -- regulatory groups, as well.
The stewardship group looks at post-market introduction compliance. Just to give you an example, that all our products come with very precise, defined labels and how materials should be handled and how it should not be handled. The stewardship role is accountable to, you know, do some market surveillance to make sure that these labor recommendations are actually followed and that products -- products are handled properly.
We have a development portfolio organization, which is a unit that collects on an annual basis all the

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project information, all the information to new business projects, help develop the business cases, and help them and support this ranking process where you make priority decisions about projects you want to fund or not fund going forward.
Q. Uh-huh.
A. For global projects, that is. He does that for only global projects. We have, then, the same processes running in the regions for regional products, as well. Issue management, if there are specific technical issues for specific products, this is a one-man show. And this individual coordinates and makes sure the communication flow is -- is happening, the data are available.
Global field support. We do extensive field test programs in all -- in countries in all the regions where we sell our products. And this is really centered around the biological efficacy, so do the project -- do our products, actually deliver what we think they should be delivering. And this role, Franz Doppman, head -- head of support organization, to -- to facilitate these programs. So he was running the data systems and making tools available to get the work done in the regions.
And then we have technical management, Klaus Gayman. He oversees the global programs for efficacy,

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biology, data generation for global registrations. So that is mainly looking at new active ingredients and the biolog -- biological programs and efficacy programs that are developed in -- in order to support reproducible biological efficacy across all the markets.
Q. Has this structure remained the same since this document was created?
A. It has changed somewhat. So the health assessment and environmental sciences function were merged into product safety. So those two boxes became one.
Q. Under -- under your leadership?
A. Yes, and previously under John Doe's leadership. So he had that role, you know, after 2006.
The CP development business management function doesn't -- does not exist anymore, but we have a business management function within product safety because all they did was product safety-related support activity, so that became part of product safety. Global regulatory affairs is unchanged. Stewardship and issue management was combined just recently, just last month, so it's now stewardship and issue management function.
Development portfolio still exists. Global field support and technical management were combined under -- under technical management structure. The

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functionality is very similar.
Q. Otherwise, it's -- it is as you described it?
A. Yes.
Q. Now, in your particular division of global product safety, do you have a budget within your operation?
A. Yes.
Q. And do you submit a budget proposal?
A. We do submit a budget proposal, but in order to understand that, it's really important to understand how we operate as a product safety organization. We have about --
Q. Well, I -- I'm going to get to that, but --
A. Okay.
Q. -- I'm just asking, do you --
A. Yes.
Q. -- submit one?
A. I do submit one.
Q. And who do you submit your budget proposal to?
A. I submit my budget proposal to the global head of development.
Q. And who is that?
A. Today it is Geraldo Ramos.
Q. And he is employed by whom?
A. Well, I haven't seen the contract, but I

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assume it's Syngenta Crop Protection AG in Basel.
Q. He's in Basel?
A. He's in Basel, yes.
Q. Do you know if he has final authority over your -- over your budget proposal, or if he has to submit it to someone else?
A. He has to submit it to the global head of R&D.
Q. And who is that?
A. That's Sandro Arrufo.
Q. Okay. And then where does it go from there?
A. Well, Sandro Arrufo is a member of the Syngenta executive committee, so he takes it forward and has it approved by the Syngenta executive committee.
Q. Okay. If you'd go to Syngenta -- it's in that same document -- 03135189.
Do you see that document, sir?
A. Yes, I do.
Q. The head of it is -- The top is entitled "GSO Environmental Fate Group"?
A. Yes.
Q. What is this document?
A. I think this is a -- a short summary of how we did deploy individuals and resources within the Greensboro organization against projects that were done in 2005.

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Q. And it shows, in just a general sense, that in the environmental fate group, 75 percent of the full-time equivalent employees were in regional tasks, and 25 percent were in shared global data development, correct?
A. Correct.
Q. And that would be to support the other groups from around the world?
A. Or to support data development, which is used around the world for registrations.
Q. Okay. And if you go to the very next page, which is Syngenta 03135190.
A. Yes.
Q. It's entitled "Key Success Factors/Challenges."
A. Yes.
Q. One of the factors identified is the internal category of capabilities of attracting the right, best people maintaining a global network of competencies.
Do you see that?
A. I see that, yes.
Q. And that's in keeping with what you testified to earlier about the shared pool of expertise and selecting the right people for the job within the umbrella of Syngenta entities?

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A. Correct.
Q. Does that policy remain today, in terms of trying to do the same thing?
A. To use -- The policy, you mean to use the best people and to match up the best experts with the -- the question at hand irrespective of where the experts are or --
Q. Irrespective of where they're technically employed within the Syngenta group of companies.
A. Yes, it does.
Q. If you go to Syngenta 03135196. And if you'd look at that and look at the center, "RDT lead," what does that mean?
A. I don't recall that acronym.
Q. Okay.
A. I don't recall that acronym.
Q. All right.
A. Sorry.
Q. And if you'd go to the next page, which is Syngenta 03135197.
A. Mm-hmm.
Q. And just tell me what this is.
A. This is a slide that describes the environmental science organization, which was headed by Harry Swaine located in Jealott's Hill and how it was

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set up at the various sites that we had facilities.
Q. So just generally, we have head of environmental sciences was -- head was Harry Swaine, correct?
A. Correct.
Q. And then below that was what, sir, if you'd explain to me?
A. You have the -- The assistant boxes that go to the left and the right that was shared support activity with the human safety group. And then underneath in that horizontal bar, we had site teams, starting out of Basel on the very left, led by Christian d'Hondt. Followed by the head of dietary safety, which was Sarah Reese, located in Jealott's Hill, UK.
Next, Peter Campbell, head of ecological sciences located in Jealott's Hill, the UK. And next you had myself located in Greensboro. And each of those four groups looked at function across the sites.
So we talked earlier about the environmental -- Global environmental fate function, so that -- that was my role as head of global environmental fate, and I would have teams. Being myself located in Greensboro, I would have teams in Basel and Jealott's Hill and in Greensboro and the same applied for the other functions.

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Q. Okay. If you'd look at the very next page, which is Syngenta 03135198 --
A. Yes.
Q. -- entitled "How Do We Assess Fate and Exposure?"
A. Yes.
Q. What is that diagram?
A. This is a diagram that summarizes the type of work we are doing and the type of data we develop and how to use the data to develop an environmental fate assessment for crop protection chemicals, in this case.
Q. Where does the diagram come from?
A. Well, that -- That diagram, I think, was copied from an OECT brochure, I believe. And I got it handed down by a colleague, so I can't be sure about the original source. But it's a fairly schematic diagram of what environmental fate assessment and determination tries to accomplish.
Q. So if -- if you could just walk me through it. On the right-hand side, there's a reference to a laboratory studies, which would include controlled model experiments, decomposition rate pathways, transportation processes.
A. Correct.
Q. What are those?

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A. So these are typically studies that are done under controlled conditions in a laboratory, in a test system. So I give you one example. You would have a small amount of soil. You would dose it with a regulated chemical. You would preserve it, maintain at controlled conditions, humidity, temperature.

You would take samples at certain time intervals, and would investigate how the chemical breaks down in soil over time, and what degradation products are formed, and you would do quite a number of those tests to --

Q. In the laboratory?

A. In the laboratory. So these would be laboratory tests that follow internationally accepted protocols, typically EOCD-type or EPA-type protocols that have been develop -- developed by the agencies and discussed globally for many, many years.

Q. And would these be done at a certain stage of the development of the compound?

A. You would typically do them late in Stage 2 and early in Stage 3. So they would typically be done the first two years in Stage 3 development.

Q. The product life cycle management program that we're going to talk about later today --

A. Yes.

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Q. -- would include in Stage 1 what process for the development of the compound?

A. Well, the product life cycle management products usually have all those data because they would have been developed when the product was originally developed for full registration. So there are really two instances. One is, since it is an older compound, not all the data requirements would have been satisfied when you applied new regulator and modern regulator frameworks.

THE REPORTER: When you applied for what?

THE WITNESS: Modern regulator frameworks.

BY THE WITNESS:

A. Because the regulations change all the time, so you have to fill in data gaps that exist simply because the requirement didn't exist when the compound was first developed. Or you would have studies in your data set that were outdated just by the methodology that was used to do them in the first place, and those would have to be repeated.

But typically, if you have a fairly up-to-date data package for compounds on the range, you wouldn't have to redo those laboratory experiments?

Q. Where would those studies be done within Syngenta initially on Stage 1?

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A. Well, on Stage 1, we typically would not do these studies, because we wouldn't have enough material to even initiate that kind of work. It would be late Stage 2 or -- or early Stage 3 development when we would do those studies.

Nowadays, they would be done in contract labs. Whoever is capable and competent to do the study, it would be done in a contract lab.

Q. But when you're developing the molecule yourself --

A. Mm-hmm.

Q. -- when you're developing it, do you do that in a contract lab?

A. Oh, yes.

Q. Okay. And have you started doing that since 2006?

A. That's correct, yes.

Q. Do you have your own laboratories for developing your own molecules still?

A. No.

Q. I thought you told me before lunch that Jealott's Hill was still -- still used to develop your own products.

A. Okay. So that -- that's a fine differentiation between research and development. So we

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have research laboratories in Jealott's Hill that basically discover the chemistry.

Q. Right.

A. Right? And once you have a candidate that you want to take forward into development, there are development activities -- And we're speaking about product safety. I was speaking about product safety.

There are activities that are necessary in product safety, like these laboratory studies in the controlled conditions, that are part of Stage 2, Stage 3 development program. We don't do any product safety studies internally anymore at any of the Syngenta sites since 2006.

Q. But what about product development?

A. Well, the other development functions, like formulation development or biological development, which is not related to product safety, are still in parts being done internally and in parts being contracted.

But product safety is contracted entirely in terms of data generation. So the studies that are being done today, since 2006 to today, that define and support our product safety profile are done in contract research organizations.

Q. What site contracts these out?

A. Excuse me?

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Q. What site, Syngenta site, is in charge of contracting them?
A. Well, all the sites do contracting of studies, so Jealott's Hill does study contracting, Greensboro does study contracting, SDI does study contracting. That's the RTP site that joined earlier this year.
Q. Okay. What -- what about -- Let's get back to the product development, the research, the new molecules. Okay? And let's make sure that --
A. Yeah.
Q. -- we're not confusing the point here.
A. Yeah.
Q. I want to make sure we understand the distinction.
In the part where Syngenta is developing its own molecule, walk me through that process, gen -- generally.
A. Okay. So we do have a stage plan, and that stage plan differentiates development phases. There are four main stages, 1, 2, 3, 4.
Phase 1 is under full control of crop protection research. So this is all about finding the right molecule with the desirable biological effects that we need in order to satisfy a market need. And that can be manufactured with a reasonable cost.

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Once we have -- So these are activities that are still done internally for the global organization in Switzerland and in the UK. So we have -- we have crop protection research facilities in those two countries.
Stage 2, as we have identified a candidate and we take the candidate to a preliminary evaluation. We do some preliminary product safety testing, which is not the full studies, that allows us to decide if this is a molecule that is registrable in the markets.
THE REPORTER: That is what in the markets?
THE WITNESS: Registrable in the markets.
BY THE WITNESS:
A. If you can get registration. If you can use it safely in the markets.
Q. All right. If you'd stop just for a second. Where is the Stage 1 work done?
A. The Stage 1 work is done in Stein, which is a site in Basel, which is not related to product safety, and in Jealott's Hill, which is an organization that's separate from product safety. So it's the CP, crop protection, research organization in Jealott's Hill.
Q. And who owns the technology -- Strike that.
Who owns the intellectual rights, property rights, to the molecule?
A. Well, Syngenta Crop Protection AG, I would

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presume --
Q. Okay.
A. -- owns the intellectual rights to the invention, if there's no previous invention and it's not IP protected.
Q. Of course.
A. Yes.
Q. That's a licensing-type --
A. Yes.
Q. -- agreement?
A. Yes.
Q. I'm talking about a four-stage development of a new molecule. So it goes through this -- this first one, this first process, and is it at that stage a fairly closely guarded secret?
A. No, not really because by the -- We have to do some field testing at Stage 2.
Q. I'm just talking about Stage 1.
A. Stage 1. Well, I don't know what you mean by "closely guarded secret."
Q. Well, I mean, is -- I mean, you don't want competitors knowing what you're developing in the molecule, do you?
A. You certainly don't want that to happen, exactly, that's right.

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Q. So you keep this close within the group of the Syngenta people who are doing the research?
A. The -- You know, the exact structural identification is confined to, you know, a limited number of people until we have secured intellectual property --
Q. Okay.
A. -- for a molecule.
Q. Now, then you said you moved to Stage 2, and then there's some testing. Is the product ready to go to market yet?
A. No. No. No.
Q. Okay.
A. It's years -- years away from market.
Q. Years away?
A. Years away.
Q. And where is the field testing done?
A. Well, it's done in the key markets. And that, you know, begins in stage -- In late Stage 1, continues through Stage 2, and Stage 3. The field testing is done in all the key markets.
So if it would be a compound that has a market in all four regions, it would be tested in all four regions.
Q. Is this a sort of soil or farm testing in the

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areas where the product would be --
A. Yes.
Q. -- anticipated to be used?
A. That's correct. On a very limited scale, yes.
Q. Where it's anticipated to be used?
A. Yes.
Q. And explain to me how, then, the product is shipped to this location to where it's going to be tested. How is this done, mechanically? Who does it?
A. How it's shipped and received, I don't know. I don't know.
Q. Okay. But -- but a product is now in late Stage 1, early Stage 2 testing.
A. Yes.
Q. And it's some years before it's going to get --
A. Yes.
Q. -- onto the market?
And it's shipped, for example, to some place in Europe?
A. Yes.
Q. Or some place in the United States?
A. Yes.
Q. And it's submitted there for testing?
A. Yeah.

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Q. And it's put in test plots in certain farms?
A. Yes.
Q. And who contracts with the farms?
A. This would be the, you know, biological R&D organization in NAFTA, for example. Can I just say that. These are all regional groups that would initiate the regional test programs or the country-level test programs even.
Q. And who would tell NAFTA what products need to be tested?
A. I don't know that.
Q. Would NAFTA have -- Strike that.
NAFTA would have no ownership rights over the molecule, would they?
A. I don't know that.
Q. Well, do you know whether they would or not?
MR. POPE: He just said no.
BY THE WITNESS:
A. I don't know, no. I don't know.
Q. Okay. Well, you told me a few minutes ago that the molecule would be owned by a particular group in Basel, all of them are, aren't they?
A. Well, that was my presumption.
Q. Yes. And I will say to you --
A. Yeah.

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Q. I will represent to you that Mr. Maeder and Mr. Atkin have said that exact same thing.
A. Okay.
Q. Okay. When they've testified in this same case.
A. Yeah. Yeah.
Q. Now, what I'm asking you is, when that mol -- When that molecule or that compound is being tested in these different locations, who tells the people at NAFTA which products need to be tested?
MR. POPE: Objection. I think you asked him that before.
BY THE WITNESS:
A. I -- I really don't know who tells them.
Q. Who would you go to ask about that?
A. Well, I would go to the head of biological R&D.
Q. Who is that?
A. Who -- Well, in the case of NAFTA, this would be -- Give me a minute with the names. Mike. Mike. Mike. Last name.
If you do have a organigram of -- of the NAFTA development organization, you will find that function. I'm sorry; I don't recall the last name.
Q. At this point in time, the product -- or the

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compound --
A. Mike Johnson. Sorry.
Q. Okay. Let me start my question over.
A. Yeah.
Q. At this point in time, the compound is not ready for sale, is it?
A. No.
Q. And it has to go through a regulatory process, doesn't it, and be --
A. Yes.
Q. -- approved for use?
A. Correct.
Q. And it has to go through packaging --
A. Correct.
Q. -- and processing --
A. Yes.
Q. -- and all that?
A. Yes.
Q. And that could take some considerable period of time?
A. Yes.
Q. But the whole idea before you spend all that money and time on this particular compound, is to see if it works in a test plot where you're likely going to sell it, correct?

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A. That's correct, yes.
Q. So if you're going to sell it in Brazil, you want to put it in a test plot in Brazil?
A. That's correct.
Q. If you're going to sell it in Illinois, you're going to put it on a farm ground in Illinois and test to see if it kills certain weeds that you want to sell it for?
A. That's correct. Or in the greater corn area.
Q. Exactly.
A. Yeah.
Q. In corn -- I mean, Iowa --
A. Yes.
Q. -- Illinois --
A. Yes.
Q. -- Indiana?
A. Yes.
MR. REEG: You guys are stepping on each other. The record's going to be messed up.
MR. TILLERY: Thank you. Sorry. Try -- I'll try not to do that. I'm sorry. If I'm interrupting you, I don't want to do that. Okay.
BY MR. TILLERY:
Q. After these tests are conducted in these various areas, for example, in the United States in the

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corn belt, including those three states I just mentioned, Illinois, Indiana, Iowa, and you found that the product was able to kill the type of -- of weeds that you wanted to kill with the product, what would you do then?
MR. POPE: This is a hypothetical, right?
MR. TILLERY: Well, actually -- actually, I guess, you can put it in any construct you want, but we were talking about how this process would work in a Stage 4 analysis.
BY THE WITNESS:
A. Well, this is not a sequential process; this is actually a simultaneous process. So if you look at us testing the biological performance of the product under local environmental or agricultural conditions, that happens in -- Almost all of it happens in Stage 3. I mean, this is what Stage 3 is about, is to develop and test a product under the appropriate environmental conditions and to optimize the product to perform to its best abilities.
Simultaneously, at the same time, you would conduct a full range of product safety studies that you had to do under those same environmental conditions in order to generate the data that ensures that the product can be used safely in that environment, that the

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residues and crop tolerances resulting from its use are registrable, so you do build your database simultaneously generating the biological information.
Q. I understand.
A. Okay.
Q. I understand now. And when you're doing that product safety testing, are you doing that like you do the -- the testing in farm fields? Do you test that in the areas where you anticipate the product's --
A. Yes, we do.
Q. -- going to be used?
A. Yes, we do.
Q. And how do you do that?
A. Well, a typical minimum program would ask you, for the U.S., for the U.S., would ask you to do about 20 residue trials. So you would have to find 20 representative fields with farmers in the corn belt, if it's a corn product, where you would contract the field part of the trial.
You would, you know, rent a piece of land. You would apply the product in controlled conditions, you would take samples, and then ship the samples to Greensboro, have them processed, and ship the processed samples out to contract research organizations to analyze for residues. One example.

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You would have to do the same type of investigation for what we call field soil dissipation. So it's not only what's on the drop, it's also what's on the field, how does the product or its degradation products move through the soil or off the soil. So you would have to do two or three of those studies, which are fairly expensive and typically last two years.
And these are only two examples. So there are a number of additional programs you would do alongside the biological testing.
Q. Would you do these before the product can be registered and sold?
A. Yes, absolutely.
Q. Yes.
A. Yes.
Q. And report the data --
A. Yes.
Q. -- too.
A. Yes.
Q. And have you done this or been in charge of this yourself?
A. Yes.
Q. And have you done these tests in Illinois?
A. The field tests in Illinois, no, no, I don't -- I have not done any field tests myself.

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Q. And where have you done your field tests?
A. Well, I did field tests as part of my career in Europe, but I have not done any -- personally any field tests in the U.S.
Q. Okay.
A. I had teams of mine doing the field tests.
Q. And do the -- do the teams do field tests in -- in Illinois?
A. Well, the teams contract field testing.
Q. Do they do that in Illinois?
MR. POPE: Objection; form of the question, asked and answered.
BY THE WITNESS:
A. I -- I don't know.
Q. You don't know if they do field testing -- Mr. Atkin told us they have multiple field tests in Illinois.
MR. POPE: Objection; form --
BY MR. TILLERY:
Q. For growth --
MR. POPE: -- of the question.
BY MR. TILLERY:
Q. -- the biological part at least.
A. Yeah. Yeah.
Q. Okay. Are you saying, for your product

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safety, if there are field tests for his -- that component to the product, that is to see if it worked, that you don't test the product safety component in one of the largest market areas for application?
A. Well, what I --
MR. POPE: Objection.
A. -- told you is --
MR. POPE: Form of the question.
Go ahead.
BY THE WITNESS:
A. -- I do not know. I cannot exclude that but I cannot confirm it positively because I would have to look at the test protocols, the distribution of -- of test lots, which I don't have access to right now.
Q. How many of these tests, product safety tests have been done since you've been in the United States?
A. I would say we do probably an average of -- It depends on the year. We do between 300 and 700 individual field trials per year.
Q. 300 and 700?
A. 700 per year on all crops in all geographies.
Q. When you say 300 to 700 a year, are you talking about worldwide?
A. No, in -- In the U.S.
Q. Okay. When you say "we" do this, who does it?

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A. This is we, I was speaking for -- for the product safety NAFTA team doing it.
Q. Okay. Product safety NAFTA does 300 to 700 --
A. Field trials.
Q. -- field trials. And let's make sure our terms are correct. What is a field trial?
A. These are field residue trials.
Q. These are product safety tests?
A. These are product safety field residue tests sites.
Q. And are these for products that are likely to be sold for -- for corn?
A. Some of them will be. Some of them will be, yes.
Q. Okay. Which ones?
A. Well, the ones that are done with corn herbicides.
Q. Yes, which ones would those be? Which molecules? Do you know?
A. Certainly mesotrione was one of the corn herbicides that we developed in the late '90s. We have -- You know, we have one development compound active right now, which is a corn herbicide, which is not on the market yet. But I think the other new active ingredient projects we had were not corn herbicides.

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Q. Is that the No. 449280?
A. That's correct.
Q. And that one's being tested in Illinois, isn't it?
A. It is likely, but I -- I need to see the trial sites to --
Q. You want to see --
A. -- confirm that.
Q. -- the piece of paper?
A. I want -- I want to see -- I don't know where the sites are.
Q. It's likely, isn't it, sir?
A. It's likely.
MR. TILLERY: Okay. The reporter says -- the videographer says we've got to go off the record.
THE VIDEOGRAPHER: This marks the end of Videotape No. 3 in the deposition of Peter Hertl. The time is now 1:59 p.m. Going off the record.
(Discussion off the record.)
THE VIDEOGRAPHER: Going on the record. This marks the beginning of Videotape No. 5 in the deposition of Peter Hertl. The time is now 2:09 p.m.
BY MR. TILLERY:
Q. I think we had started this discussion by looking at Exhibit 9, page 03135198.

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A. Correct.
Q. Hadn't we?
Now, this little diagram is just basically demonstrating the fate and exposure and what happens to a chemical when time, water, heat and sun and all other components interact, other chemicals, everything else, interacts with it, breaks it down, right?
A. Correct.
Q. You don't want to sell a product that, when it breaks down, causes problems for people, for humans, for the environment, do you?
A. Correct.
Q. Okay. So part of your testing in your global product safety analysis is to discern what ends up happening to these products when they are placed into the environment and when all of these different aspects of the environment come to play on that product, right?
A. Yes.
Q. All right. Now, you were telling me that these tests were done. You told me that without looking at the specific 3- to 700 field trials, you couldn't tell exactly where they were done in the U.S., but that you suspected because Illinois is a large corn-growing state, that the field trials would likely have been conducted in that it state, as well, correct?

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A. Yes.
Q. Now, the results of those studies, when you get those -- Now, we're still some distance away from going on the market, aren't we?
A. Yes.
Q. Yeah. With 449280, that product is not being marketed, is it?
A. No.
Q. Would that be a substitute for atrazine?
A. Well, I cannot speak to that because I'm not in biological development, so I'm really not competent to say how the --
Q. Well --
A. -- biological performance compares.
Q. -- here's -- here's what I -- I'm -- and -- and I did it again.
Mr. Reeg told me not to walk over your answers, and I just did it. I'm sorry.
MR. TILLERY: Did you get his --
THE REPORTER: Mm-hmm.
MR. TILLERY: -- his full answer?
BY MR. TILLERY:
Q. I apologize, sir.
Would that product be used to kill the same kind of weeds?

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A. I have to repeat what I said. I'm not a biological expert. I cannot testify to that.
Q. Okay. All right. You don't know what the business people would be selling it for, that 449280?
A. Well, they would sell it as a corn herbicide.
Q. But specifically for which types of weeds, you wouldn't know?
A. I do not know that, no.
Q. All right. Now, when you do these 3- to 700 field trials, is that in a year, by the way?
A. That's in a year, yes.
Q. Right. Do you start new ones every year?
A. Yeah, we do start new ones every year. A few ones are multi-year trials, but most of them are seasonal trials.
Q. With whom do you contract to do these in the U.S.?
A. To do the field experiments?
Q. Yes.
A. You know, we have a list of about 50 to 60 contract research organizations that are doing trials on our behalf.
Q. And do those organizations who contract this out -- Strike that.
Are they located in multiple different states,

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some of them loc -- I -- localized in a single state? How does that work?
A. Well, there are organizations that operate in a single state. There are organizations that cover more than one state. But the 50 have been selected to cover the geographical growing areas of the U.S.
Q. Are some of them universities?
A. For product safety testing, I don't think so. I would be surprised if we would give it to a university.
Q. Do you have any involvement with these particular contractors?
A. No.
Q. Who does at Syngenta Crop Protection, Inc.?
A. At Syngenta Crop Protection, Inc., it would be the test team that manages and contracts the field trials.
Q. And -- and who is the person who heads that up?
A. That would be Charlie Pearson.
Q. Who is his boss?
A. Trish Malarkey.
Q. Okay. Now, these field residue trials that you talked about as part of the product safety testing, are those test results put in some kind of report or

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analysis, a data set, once the results are in?
A. Yes. There will be a report written, which will detail the data that have been found in each of the test sites.
Q. And what is that report used for?
A. This report is used for determining the potential dietary exposure resulting from the use of the compound on that -- on that specific target drop to humans or to farm animals that are fed any parts of the crop.
Q. And is that report from the field residue trials passed on to the person or group in Basel that's in charge of developing the new active ingredient?
A. Well, the report will become part of our global data management system. So it will end up in a database. I would not necessarily see why Basel needed the individual reports because they have only value in the U.S. for gaining a U.S. registration.
Q. Well --
A. They would be submitted by the U.S. team.
Q. Okay. So you don't share -- Strike that.
The people from Jealott's Hill who are developing a product, a molecule, get it past Stage 1 and into Stage 2 --
A. Mm-hmm.

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Q. -- and send that compound in some type of -- of method that you are not familiar with to the U.S. for testing in a field --
A. Yes.
Q. -- trial. Okay?
A. Yes.
Q. And as part -- And this is long before the product is --
A. Mm-hmm.
Q. -- on the market. Are you telling me that you don't give the reports back from the product safety right back to the people who were developing the molecule?
A. Well, what I told you is factual. I mean, the -- the reports are in -- in our database, global report database, and they can be extracted by whoever wants to see the results.
Q. So you do this report. And it's the method by which you load the data?
A. Yes.
Q. You put the data --
A. Into a database.
Q. So it's accessible to everybody?
A. It is accessible, yes.
Q. So that -- that information is accessible to

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all of the -- of the entities associated with Syngenta?
A. That do have access to the database, yes.
Q. All right. Would -- would Jealott's Hill have access to that database?
A. Jealott's Hill will have access to the database.
Q. Okay. Basel people have access to the database?
A. Basel has access to the database, yes.
Q. Okay. So -- and then they use this information from these field trials to decide whether to take this product to the next step, don't they?
A. Well, it's part of the data they will be using to make that decision, yes.
Q. As a matter of fact, if -- if the field trials came back and showed a problem with a molecule, that could be the end of the entire analysis for that molecule, couldn't it?
A. In a specific market.
Q. Well, I mean, if it came back and showed that it was a dangerous molecule to humans or to animals, you wouldn't sell it anywhere, would you?
A. Yes. That's correct, yes.
Q. Okay. So if those field trials came back showing there was a danger to farm animals or humans in

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Illinois, let's say, and that report went on this global database, that could spell the end or doom for that particular compound; is -- is that a fair statement?
A. Well, no, not really, because it's an incomplete statement. You know, the -- the field trial itself, it will give you only two pieces of information. One is does the product work as it is designed, does it control weeds, which is not the work that product safety is doing.
And the second piece of information you would be getting out of that residue study is the amount of residual levels that you have in the crop. That's all it's going to tell you. This doesn't constitute an assessment if it's dangerous or not.
Q. Okay.
A. Okay?
Q. So what you're saying is that the field test results may not show that it's dangerous?
A. It -- all it shows you is the amount of residues that's left over in the crops.
Q. Okay.
A. And you use it according to what we think the label recommendation will be in the future.
Q. Okay. Well, is there some test result that would come from the field residue studies that would be

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inconsistent with future marketing of the product?
A. I don't think so.
Q. So, in other words, irrespective of your test results, they have nothing to do with whether or not you're going forward with your marketing of the product?
A. Well, the test results together with the end points that define an acceptable dose allow you to make that conclusion.
Q. Are there --
A. You cannot do with -- one without the other.
Q. Are there environmental fate field studies?
A. There are, yes. Yes.
Q. Are they different than the ones you're talking about?
A. They are different, yes.
Q. Okay. And are there health studies?
A. There are health studies, yes.
Q. Are they different than the ones you're talking about?
A. Different than the residue studies you mean?
Q. Yes.
A. Yes, they are different.
Q. Okay. Who does those?
A. Well, environmental fate field studies would be done in -- in, you know, wherever you want to market

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the compound. So that's a data requirement. So if you would market it in the U.S., you would do it in the U.S. If you want to market it in Europe, it would have to be done in Europe.
Q. And, likewise, if you're going to market it in Illinois, a big, large, corn production state, you would likely put it in a farm field there and test it, wouldn't you?
A. Well, you would have to do it in a typical environment. And a typical environment could -- could not be Illinois.
Q. Could not be?
A. I mean, you -- you -- you could do a typical study in Iowa which would represent the situation in Illinois.
Q. Okay. Are you saying that you don't test -- that you're -- Are you testifying here, sir, that you don't do environmental fate field studies in Illinois?
A. I haven't been saying that. I said we could do. I cannot say over the last 15 years of our environmental fate test sites for Stage 3 compounds, which is the subject of our discussion here, where they have been over the last 15 years, you know. And I -- I don't know if we have test sites in Illinois to that extent.

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Q. Yeah. What I -- What I'm trying to do now for product safety or for any single aspect of product before it goes onto the market, I'm talking about before it's finally approved and sold.
A. Yes.
Q. I want to know every single type of test that is done on those compounds in the market area where that product's going to be used. So let's see if we can slowly go through every one of those.
One of them --
A. Okay.
Q. -- is a -- is a residue study, right?
A. Yes.
Q. Hold on just a second, and we'll write down residue study.
Would there be an environmental fate field study?
A. Yes.
Q. Would there be a health study?
A. No. You wouldn't have to do that in a market.
Q. Okay. So we have residue study, environmental fate field study. What else?
A. These are basically the two study types you have to do in the target markets.
Q. You do the biological study --

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A. Not --
Q. -- which is on the product itself.
A. Not within product safety.
Q. That's -- that's before product safety?
A. Well, that's concurrent with product safety data generation, but it's not done within my area of responsibility.
Q. Is that done to determine whether the product is going to work?
A. Yes.
Q. All right. Is that done by a different group of people?
A. Yes.
Q. Who does the -- the -- What do you call that study?
A. I would call them biological efficacy studies.
Q. An efficacy study, a biological efficacy study?
A. Yeah, mm-hmm.
Q. Okay. We have a residue study. A biological efficacy study, and an environmental fate field study.
A. Yes.
Q. What other studies are done in the area where the product is going to be marketed before the product is sold?

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A. I -- I think there's the three study types --
Q. Okay.
A. -- you have to do.
Q. Now, the biological efficacy study is done by whom?
A. By the biolog -- biological research and development crew.
Q. And who would that be?
A. That would be -- The manager of the group?
Q. Yes.
A. It would be Mike Johnson, part of the NAFTA research and development organization.
Q. Does the NAFTA research and development organization have a functional reporting relationship with somebody in Jealott's Hill or Basel?
A. You know, you would have to ask -- ask the NAFTA biological research and development organization that question.
Q. You don't know?
A. I don't know.
Q. Okay. But as we go through these stages and development of the product, the product is not created on a molecular site by Syngenta Crop Protection, Inc., is it?
A. What do you mean --

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Q. Stage 1. Stage 1.
A. Stage 1, no.
Q. That's done at Jealott's Hill?
A. Or Stein in Basel.
Q. Or Stein in Basel?
A. Yeah.
Q. Okay. Now, when it gets to -- What stage does it get to for biological efficacy studies?
A. It gets to -- It depends how much material is available, obviously. It's a question of material, ability to produce material. It typically would be in Stage 2 and certainly would be in Stage 3.
Q. Okay. And what is the next study that would be undertaken? Of the remaining two studies. You said there are a --
A. Okay.
Q. -- residue study and environmental fate and field study?
A. Okay. The dietary residue studies and the environmental field studies would be started in Stage 3.
Q. And who would do the residue study?
A. They would be done by product safety.
Q. And what would you be looking for with residue? What is it that you're assessing or testing?
A. We test the amount of residual active

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ingredient or relevant degradation products that remain in the -- in parts of the crop after treatment and, you know, the crop reaching typical maturity so that it can be harvested.
Q. And the environmental fate field studies are done by whom?
A. By product safety.
Q. Yes. And what is it that you seek to assess in those studies?
A. The field half life, so half life under field conditions for the active ingredient and relevant metabolites. So how long does it take to degrade. The mobility in the field conditions, which is focused on vertical movement. And that's pretty much the gist of the study.
Q. Vertical movement?
A. Vertical movement and degradation.
Q. What is vertical movement?
A. Vertical movement is the pesticide residue, the active ingredient or degradation products moving down to the water phase into the soil profile.
Q. Absorption?
A. Absorption, desorption, is part of that process, as well, yes.
Q. Do you look at a horizontal movement of the

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product in this environmental fate field study?
A. We would now. You know, I think the EPA's newest test guideline, if it would be triggered by certain properties of the compound.
Q. Explain what you mean by that.
A. By certain properties, if a compound would have a high solubility, if it would have a low solvent coefficient, and if it would be persistent under field conditions, you would be looking at horizontal movement, as well.
Q. Is atrazine one of those?
A. I would say atrazine is -- Well, I mean, it's field half life is about four to six weeks, four to eight weeks, I would say. In the field conditions, it varies a little bit. It's moderately mobile. Certainly when you look at -- at concentrations we see in -- in surface water bodies in certain sites, you know, there is a possibility that atrazine moves horizontally off the field.
Q. How long have you known that?
A. Me personally?
Q. Yes.
A. Well, I think when I became involved with atrazine in 2000 --
Q. Okay.

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A. -- and we were looking at the data.
Q. Now, the environmental field study results, could those result in the chemical not moving forward in the process of -- of advancing towards ultimate sale?
A. Well, they would certainly contribute to it, as would the dietary residue data, too.
Q. Well, let me ask you, what is it that goes into all of the decision-making regarding whether that product is going to ultimately be sold?
A. From a product safety perspective?
Q. No. From an overall perspective.
A. From an overall perspective. Well, it has to have an acceptable biological efficacy profile. So it has to work. It has to do what we think it should do. It has to pass a regulatory test regime, which would use the data that we have been talking about that are generated by product safety. And we have to be able to -- to, you know, manufacture it for a competitive price. That certainly goes into it.
It has to be equivalent or better than the current products that are being sold in the market, so that you actually do have a better solution. It has to have -- It has to have an acceptable safety profile, certainly one of the components. And that's what the regulatory process determines as part of the approval

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process.
Q. Now, how is all of this -- All of these factors put together and a decision made?
A. Well, the -- the -- You know, the individual elements -- I'm only going to speak about the product safety piece because that's what -- what my department is accountable for.
Q. Okay. So -- I -- I'm talking about the entire group. Do you know how all of these pieces are put together and a decision is made, ultimately, taking into account all of these factors you have discussed --
A. Yes, there are --
Q. -- and then ultimately --
MR. POPE: Let him finish, please.
THE WITNESS: Sorry.
BY MR. TILLERY:
Q. Do you know how these components fit together in terms of a decision?
A. Yes, I do.
Q. And do you know who makes the decision?
A. Well, for a global product release, it's the head of development globally. For a regional product release, it's the head of development in -- in the region.
Q. Are you talking about before -- You're talking

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about after the product is registered and ready to sell, correct?
A. Yes.
Q. That's not my question, sir. My question is who makes the decision about whether to advance the molecule for ultimate registration and sale, taking into account all these field tests and all these other criteria you have discussed? Who -- who makes the call?
A. For -- Well, it's the same committee. So it's that development committee that has a representation of all the functions, mine being one of them.
Q. And that's in Basel?
A. For global products, it is in Basel. For regional products, we have the regional units who do that.
Q. The regional -- the regional unit is after the product is already registered. Actually, what I'm asking you, sir --
A. Okay.
Q. Are -- are we having -- we're having trouble communicating. Do you not understand what I'm asking you?
A. Ask it again.
Q. All right. I'm asking you for the decision about bringing a product onto the market. Are we clear?

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A. A new active ingredient.
Q. A new active ingredient.
A. Active ingredient. Okay.
Q. Okay. Okay. You're not going to let the folks in Brazil make a new active ingredient, right?
A. That is correct.
Q. Okay.
A. That is correct.
Q. You're going to do that out of Basel, aren't you?
A. That is correct.
Q. All right. And an atrazine replacement would be a global product, wouldn't it?
A. This is correct, yes.
Q. Now, what -- walk me through the product safety component in taking a product off the market. Have you ever been involved in that?
A. I have not been involved in taking a product off the market.
Q. Has Syngenta ever taken a product off the market because of safety concerns?
A. The -- You know, some of our products that were organophosphates, were taken off the market because they couldn't meet a regulatory standard and indicated a safety risk -- risk. Now, I don't recollect the actual

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timeline for those decisions. So that might have been Syngenta. It might have been one of the predecessors.
Q. Now, we talked about the three different types of tests that were done, and then you said these reports are concluded and they are placed on the -- the Syngenta intranet system. Okay?
What is the next step in this process about taking a product to ultimate market?
A. Well, this data generation process runs over a number of years. And there are review points as you do the data development. It allows you to see if you do meet a regulatory standard, if you do have a safe product, as far as product safety is concerned.
The next step is once you have completed the relevant studies, you make a regulatory submission to authorities that regulate that market. It would be the U.S. EPA here in the U.S., and they review the data, do their own safety assessment, and grant you an approval, if they're satisfied that, in this case, the safety aspects have been adequately addressed, and by the way the product is packaged and used, labeled, that they're satisfied that this meets their regulatory standards.
Q. Do you know what the development committee is?
A. Yes.
Q. Are you on the development committee?

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A. Yes.
Q. What is your role with the development committee?
A. I represent product safety positions on the development committee.
Q. How long have you been on that committee?
A. Since January 2010.
Q. Prior to that time, you weren't a member?
A. No.
Q. How many members are there on the development committee?
A. Portfolio -- Well, the head of development is chairing it. We have biological R&D representation. We have portfolio management representation. We have product safety representation. We have global regulatory representation. We have stewardship representation. We have issue management representation, which is now a joint function. I think that's -- We have formulation development representation, as well.
Q. How many development committee members are employees of Syngenta Crop Protection, Inc.?
A. Well, there are -- There's more than one development committee. We have a global development committee that does the AI promotions. And then we have

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the regional development committees. So --
Q. I'm talking about the global committee.
A. Well, they would be employees of Syngenta Crop Protection AG in Basel. Except for myself in my current role. I've been on that committee since January 2010 and still a member of and employee of Syngenta Crop Protection, Inc.
Q. And everybody else is from Basel?
A. This is correct, yes.
Q. Does the development committee, the global one, have to approve the release of a new active ingredient?
A. Yes, it does.
(Hertl Deposition Exhibit No. 10 marked as requested.)
BY MR. TILLERY:
Q. Now, this is a March 15th, 16th management meeting. And I presume that everything --
MR. POPE: Did you say 2001?
BY MR. TILLERY:
Q. I'm sorry. 2001.
A. Okay.
Q. Excuse me.
And I presume that this document is old news, right?

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A. It's nine years old.
Q. But it doesn't -- What I'm saying is that it doesn't reflect current management --
A. No. No.
Q. Is that a fair statement?
A. Yes.
Q. All right. Was this document, this global environmental safety document, if you can tell me, accurate at least for the period of time that you said those couple of years, was it an accurate reflection of the means by which products were handled at that time?
A. I -- I don't recall the document so --
Q. If you can just go through it and tell me if -- what I'm trying to find out is, was this -- was this type of organization reflected. It's got a chart, if you want to look at it, on GRNVL 0000015977. It's got a --
MR. POPE: Can I ask him to look at the whole document?
MR. TILLERY: Yeah, I'm not going --
MR. POPE: Do you want him to --
MR. TILLERY: -- to spend much time on it.
MR. POPE: -- just look at a page, then? Yeah, I would --
BY MR. TILLERY:

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Q. Here's what I'm trying to do is find out if this actually reflects what the management structure was at that time. That's all I'm trying to find out.
MR. POPE: He might not be the best witness to answer that.
BY MR. TILLERY:
Q. And -- and if you can't tell me, that's okay, too. Just -- but you are included in these analyses, is the reason I'm asking.
A. From -- from what I can tell, it looks like a -- you know, proper summary of the function at that point in time. It obviously has changed significantly.
Q. I'm sorry?
A. It obviously has changed significantly since then.
Q. Did it accurately reflect the organization at that time?
A. Well, I cannot speak to -- to the accuracy, because there are parts of the organization on there which, you know, I'm not familiar with. Like on page 15977, the economics organization, discovery --
THE REPORTER: The what?
THE WITNESS: The economics organization.
BY THE WITNESS:
A. -- discovery organizations, I, you know, have

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really no familiarity with those.
What I do have familiarity with is the health assessment and environmental safety organization under Lewis Smith, which is on this slide.
Q. And it's accurate, at least as of at that time?
A. At that time.
Q. Skip ahead there, if you would, to 15988.
Do you see that document, sir?
A. Yes.
Q. Okay. Can you explain this document to me.
A. You're looking at the global environmental safety activities, 2001 --
Q. Yes.
A. -- heading? I think this is a breakdown, I believe, of work that was done in 2001 within the environmental safety teams in Europe and in NAFTA in support of the portfolio approach actually worked on in 2001. And it's broken down by skill area or area of expertise.
Q. Is there such a chart for your global group at this time?
A. No, there is not.
Q. Do you have this type of data or retain it?
A. We do have this type of data and retain it,

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yes.
Q. And for what purpose do you keep this data?
A. Well, there is a functional management purpose to it. So, you know, you -- you need to know what you do in order to be able to use the resource optimally.
The second reason is data compensation. If competitors of ours use our data to get products containing active ingredients which are no longer under patent protection, they owe us compensation for using it, referring to our data. So we have to know how much resource we spent in the first place to generate that information.
And I think the third reason for this, product safety has different customer groups, so I think we did talk about the work we do for the global development function, but we also do work for the regional development organizations which are being paid for by the regional marketing and sales organization. So we have to keep these two things separate because they're funded differently.
Q. Who decides on -- currently, sir. Let me start over.
Currently who decides how many product safety full-time equivalent employees will be located at Greensboro?

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A. Well, I do this with my management team depending on the actual needs in the specific regions.
Q. You do that?
A. In coordination, collaboration, with my teams.
Q. And you'll do that when you move to Basel, won't you?
A. In coordination with the regional teams, yes.
Q. And who decides how many full-time equivalent employees you'll have in your product safety group in the UK?
A. Well, I will do that.
Q. Okay.
A. Same story, in cooperation --
Q. Okay.
A. -- with the team leaders responsible for that team?
Q. Now, we were talking about this particular type of data and information. Do you seek to avoid repetition of the same type of product safety research or early screening or product support or contracting by keeping track of who's doing it in which Syngenta entity? At least with respect to product safety.
A. With respect to -- Well, we seek to avoid repetition of studies. So that the same study is not done over and over again. Which means we need to

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coordinate who is doing the work programs. And that's this global coordination that I was referring to previously for the global pieces that we do in support of the global AI development proj -- programs.
Q. Are there different skill sets within the groups of employees that you have at Jealott's Hill and Basel and the U.S.?
A. Yes, there are different skill sets.
Q. And you call upon these different skill sets of people based upon your knowledge that they're there and that they can serve a function that's beneficial to a project with respect to product safety that's going on at some part of the world?
A. Well, and -- and -- I would say --
Q. But is that -- Is that correct?
A. Well, let me -- If you'll -- There are two answers to that. One is the resource utilization, which is, do I call upon experts independent of where they are to support projects where they are needed through their expertise? Yes, we do that.
The second one is the areas of expertise are slightly different at the sites, because the customer groups at the sites are slightly different. So Jealott's Hill has an early stage support activity simply because they're co-located with the research

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group in Jealott's Hill. They're on the same side. So there's collaboration between those teams. Which is not the case for the Greensboro operation, since they are geographically remote.
Q. For example, Greensboro would not be able to do everything, beginning to end, that is, necessary to develop and register a new active ingredient on its own without Jealott's Hill, would it?
A. Oh, we are perfectly able to do that once we have a compound in Stage 2.
Q. No. You didn't hear my question, sir. I move to Strike that as unresponsive to my question.
A. Okay.
Q. I said, would Greensboro today be able to do everything necessary to develop, from the very beginning, a brand-new molecule and compound, to develop it, test it, register it on its own, without the facilities at Jealott's Hill? Or one of the other laboratories.
A. Well, let me -- You know, I think one of the misunderstandings is the definition of develop.
Q. You know that I'm talking about a new molecule.
A. Well, I can tell you we could not develop or find a new molecule in Greensboro because we don't have

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Stage 1 activities in Greensboro.
Q. That's my point. You don't have that?
A. We don't have that.
Q. So -- so if -- If developing a product includes Stage 1, a new product, and it does, doesn't it?
A. Well, I would call that a research activity because we could -- we could take -- Quite honestly, we could take a compound from a third party and develop it into a product.
Q. Okay. Well, then let's call it research.
A. Yeah.
Q. Does that -- does that make you feel more comfortable?
A. That -- It's -- It's in -- in sync with the way we call things, yes.
Q. So a researched product from a new compound, if I limit it to those new compounds --
A. Yes.
Q. -- starting up, you cannot do that at Greensboro, can you?
A. No, we cannot.
Q. Does -- Strike that.
Are there any rights associated with the sale of atrazine today, to your knowledge?

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A. I don't know.
Q. You don't know about that?
A. I don't know -- know about that, no.
Q. Do you know if there ever have been?
A. I don't know that, no.
Q. Do you know if there are mixes or different compounds that include atrazine that are protected products?
A. Well, I do know there are mixes, but I don't know if they are protected products.
Q. You know if they are sold or licensed to other entities outside of Syngenta subsidiaries?
A. I don't know that.
Q. Do you know if there are any compounds that Syngenta license for sale to other entities?
A. I don't know that. I'm not in that part of --
Q. You don't know any of that process?
A. I'm not in that part of the business, no.
Q. Okay.
MR. POPE: Just as an aside, Mr. Hertl is on the same plane home as Beth was last -- last week.
MR. TILLERY: What time?
MR. POPE: So if you could get him a taxi at 4:30 or so, that would be great.
MR. TILLERY: Oh, shoot.

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MR. POPE: He's been -- he's been very cooperative here.
MR. TILLERY: Let's go off then.
THE VIDEOGRAPHER: This marks the end of Videotape No. 5 in the deposition of Peter Hertl. The time is now 2:57 p.m. Going off the record.
(Discussion off the record.)
(Hertl Deposition Exhibit No. 11 marked as requested.)
THE VIDEOGRAPHER: This marks the beginning of Videotape No. 6 in the deposition of Peter Hertl. The time is now 3:16 p.m.
BY MR. TILLERY:
Q. I can move quicker if you work with me on things to get through the documents. Okay?
A. Okay.
Q. What I'm looking for -- I'm going to tell you before I even show you any documents -- is some identification and background to explain what the document is. And we can move through our group of documents quicker, and then perhaps you can make your plane. Okay?
MR. POPE: All I would ask on that regard is you allow him to say whether he's ever seen the document before you ask him questions.

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MR. TILLERY: Of course.
BY MR. TILLERY:
Q. Have we given to this him? We have. Have you looked at No. 11?
A. No, not yet.
MR. POPE: Are you ready, Mr. Hertl?
THE WITNESS: Yes.
MR. POPE: Have you ever seen that before?
THE WITNESS: I've seen parts of it, I think. I'm not sure if I've seen the entire pile presentation.
BY MR. TILLERY:
Q. If you would just -- This was a document produced to us in discovery in this case.
A. Mm-hmm.
MR. TILLERY: And what we're going to have to have if there's going to be an issue about the authenticity of them, Mike, is I think some description of them, so we have a way of getting them into the record for use.
MR. POPE: You -- you misunderstood me, Steve. I just think -- I'm not anticipating any authenticity problems. The only question is whether this particular witness has ever seen it before.
MR. TILLERY: Right.
MR. POPE: That's all.
MR. TILLERY: Right.

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BY MR. TILLERY:
Q. Can you go to 1877. Do you see that?
A. Yes.
Q. And you see the second bullet, "Level 1 products will be managed globally within a sector as far as possible taking into account chemical class and major business markets"?
A. Yes.
Q. Was that done when this particular protocol was in place?
A. Well, the -- It was one of the attempts to do it. And I think the -- This refers to a statement I made earlier when we talked about the health products manage -- products management group, which we discontinued after, I think, less than two years because it didn't work. And I think this was one of the changes to the process they made midstream to make it work better. If I remember correctly. But that's a long time ago.
The reason why I had seen only parts of the document, I was not part of the human safety organization at -- at this point in time. I was in environmental safety, and this mainly talks about human safety organizational principals.
Q. Back to my question --

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A. Yeah.
Q. -- the Level 1 products managed globally, was that attempted at that time as part of --
A. It was attempted, yes.
Q. Yes. And atrazine was listed as a Global 1 product, wasn't it?
A. It -- I believe it was, yes.
Q. All right.
(Hertl Deposition Exhibit No. 12 marked as requested.)
BY MR. TILLERY:
Q. Take a look at Exhibit 12. Do you know any of these people?
A. I do know Paul Hendley. I do know Paul Sweeny.
Q. And you're copied on this e-mail exchange, aren't you?
A. Yes, on the second one.
Q. And this e-mail exchange took place in December 2004?
A. That's what the date says, yeah, that's correct.
Q. And it's referencing a meeting that was held at Greensboro with Lewis Smith?
A. I have to go through that. I -- I don't

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recall the e-mail, so let me just take a couple of minutes to look at it. Okay.
Q. And it involves a conversation in Greensboro that Mr. Hendley had with Lewis Smith. That's the communication?
A. Yes.
Q. About funding operations or help?
A. Well, I think it was much more about personal time commitment and resource rather than funding.
Q. Right. And who was Mr. Smith?
A. Smith was the -- At this point in time, it would have been the head of HAES, I believe. This was probably before he moved on to become head of development. And in --
Q. Where was he located at that time?
A. He was located in Alderley Park in England.
Q. And by whom was he employed?
A. By the local entity of -- Syngenta entity.
Q. Whichever one, you don't know?
A. Whichever one. That, I don't know about.
Q. He was not employed at Syngenta Crop Protection, Inc., was he?
A. No, he was not.
(Hertl Deposition Exhibit No. 13 marked as requested.)

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BY MR. TILLERY:
Q. Can you tell what this document is?
A. This document lays, you know, out the -- I suppose from the title, the AI lead roles and the process they should be doing. The AI lead refers back to one of the exhibits we had looked at earlier this morning, which were the individuals that should be pulling product safety information together on an AI basis.
Q. What is a virtual team?
A. Virtual team is a team that's at multiple sites. So they're actually not co-located.
Q. Give me an example of a virtual team --
A. Okay.
Q. -- as contemplated by this document?
A. Okay. Let me just look at the document. So a virtual team would be comprised of --
Q. Go ahead.
A. A virtual team would be comprised of the necessary specialists that are needed to address a certain question or a specific active ingredient independent of location. So it could include people from Greensboro and from Jealott's Hill.
Q. And from Basel?
A. At -- at this point in time, they didn't have

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Basel -- Basel representation anymore. But if there were people in Basel, it could have included Basel product safety stuff as well, yes.
Q. So it's -- it's a group of -- of employees of different subsidiaries working together to accomplish their goals with respect to an active ingredient?
A. Based on their expertise.
Q. Based on their expertise?
A. Based on their expertise.
Q. Irrespective of who they worked for directly in the umbrella of Syngenta entities?
A. That's correct, yes.
(Hertl Deposition Exhibit No. 14 marked as requested.)
BY MR. TILLERY:
Q. If you could just quickly tell me what this is.
MR. POPE: This is Exhibit 14?
MR. TILLERY: Yes.
BY THE WITNESS:
A. It's a meeting request.
Q. I'm sorry? What is this?
A. This is a meeting request. And -- and it speaks to organizing a discussion around what the title says. The subject is, "updated EPA's recently released

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endocrine disruption screening list."
So that's a discussion around the program. It's a test -- new test program that EPA announced around mid-2007 for a whole list of pesticides, including some of ours, but there were in total, I believe, 63 on that list. So not all of them were Syngenta's.
Q. And look at the required attendees. At the bottom of the group, you have Phil Botham. Where is he from?
A. He's located in Jealott's Hill.
Q. And Donna Houghton?
A. She's located in Canada.
Q. And Steve Maund?
A. Located in Basel.
Q. And Kersten Mewes?
A. Located in Basel.
Q. And then you had Maureen Smith was an optional attendee?
A. Jealott's Hill.
Q. And James Wheeler?
A. Jealott's Hill.
Q. Okay.
(Hertl Deposition Exhibit No. 15 marked as requested.)

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BY MR. TILLERY:
Q. This is Exhibit No. 15, sir. Can you tell me what it -- it is?
A. This is an e-mail that I did send out on August 11th, 2008, to Phillip Botham in Jealott's Hill.
Q. Regarding?
A. The endocrine disruption global team representation.
Q. The two pages there are part of that same e-mail exchange, aren't they? Or three pages. I guess it's -- We were given three pages as part of this whole thing.
A. I've got three pages, yes. The last page is empty.
Q. Okay.
(Hertl Deposition Exhibit No. 16 marked as requested.)
MR. TILLERY: This is No. 16.
BY MR. TILLERY:
Q. Can you tell me what this is.
A. This is a list of AI specialists. So these are people that do have specific technical expertise in the human safety area for the list of active ingredients that Syngenta has in the markets or was developing at this point in time.

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Q. Who decided these assignments?
A. That was a joint decision of the team leads that were in human -- in the various human safety groups in the organization.
Q. When you say "organization," what do you mean?
A. Product -- in the product safety organization.
Q. So who are the team leads that you're referencing?
A. Well, this would be -- would have been a Phil Botham in Jealott's Hill. Would have been Tim Pastoor in Greensboro. I think these were probably the two key people.
(Hertl Deposition Exhibit No. 17 marked as requested.)
MR. TILLERY: Let's look at No. 17.
BY MR. TILLERY:
Q. Can you tell me what this is?
A. This is an e-mail that I sent to Harry Swaine on May the 7th, 2004. It does talk about a succession plan, I believe. Succession plan -- succession plan attached. Which is, you know, an exercise we go through on an annual basis to look at talent development within the teams and potential next assignments that we would like to give them in order to develop their potential further.

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Q. Harry Swaine was in Jealott's Hill in --
A. He was in Jealott's --
Q. -- the UK?
A. Yes.
Q. He wasn't working for Syngenta Crop Protection?
A. No.
Q. He was -- You described him as your functional manager at one point in this deposition?
A. Yes, correct.
Q. And he was the person that you went to for some personal matter -- personnel matters regarding merit increases for some of the employees, weren't you?
A. For the employees that were located in Jealott's Hill.
Q. And you asked for those? You said, "I need to talk to you Monday to discuss some personnel matters, merit increases, status NS." What does that mean?
A. I don't recall what status NS meant.
Q. What's a merit increase?
A. It's a salary increase. An annual salary increase.
Q. Okay. And Jeremy Dyson?
A. He's one of the team members that, at this point in time, probably would have been in Jealott's

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Hill, but was about to move to Basel to take on a development position.
Q. And you were calling Mr. Swaine to discuss these personnel matters, weren't you?
A. Yeah, because he works within my function, but he was actually in the management line of Harry Swaine, who was the line manager in Jealott's Hill.
Q. This is the same Harry Swaine who approved or was involved in your own salary increase?
A. Yes.
(Hertl Deposition Exhibit No. 18 marked as requested.)
BY MR. TILLERY:
Q. If you'd look at this e-mail exchange and tell me who Alfred Seiler?
A. Alfred Seiler, located in Basel, used to be the global regulator and mentor for traited seeds, which would include atrazine.
Q. And he was at Syngenta Crop Protection AG --
A. That's correct.
Q. -- as of September 20th, 2004?
A. I presume that this is correct.
(Hertl Deposition Exhibit No. 19 marked as requested.)
THE WITNESS: Oh, sorry.

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BY MR. TILLERY:
Q. If you'd look at No. -- Exhibit No. 19, please. And this is an exhibit and appears to be an e-mail exchange between Steven Wall, and it's USGR. Where would that put him?
A. Steven Wall is located in Greensboro.
Q. Okay. And he was communicating with a person Jackson -- How do you pronounce the last name?
A. Gheissari Amelia.
Q. What was her title?
A. She's located in Basel, and she was part of the product safety team in Basel at that time.
Q. And what was Mr. Wall's job?
A. He was a -- 2005 -- a -- a technical expert, an ecologist in the ecology group in Greensboro.
Q. And if you look here at her request to him, she's asking for information. Can you look --
A. Yes.
Q. -- and see --
A. Yes.
Q. -- what she's looking for? What is it she's looking for?
A. The EPA has what they call an online database, and -- which -- which summarizes technical information for pesticides -- all pesticides that they register. So

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she was asking him to help her to pull that information from EPA's online database.
Q. And could you tell me, was there a global hiring freeze in all Syngenta entities at that time in 2005?
A. I don't recall this honestly. I mean, we had them on and off, but I don't recall what the situation was.
Q. How many of them had there been?
A. A few. I mean, I haven't counted them.
Q. Who decides whether there's a global hiring freeze?
A. Well, that's a decision that's made by the entity that has problems to deliver a budgetary goal for the year.
Q. Who would that be? Who -- who decides a global hiring freeze for all Syngenta entities?
A. Oh, a global hiring freeze. Oh, it would be a global decision if it's a global hiring freeze.
Q. And where would that be?
A. That decision would be made in Basel.
Q. That would be the executive committee, Syngenta AG executive committee?
A. Or whoever leads this -- You know, the -- the big group within the Syngenta organization to which a

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global hiring freeze applies.
(Hertl Deposition Exhibit No. 20 marked as requested.)
MR. TILLERY: That's one exhibit.
BY MR. TILLERY:
Q. Can you look at Exhibit No. 20 and tell me what that is, please.
A. This is an e-mail that I had sent to Marian Stypa on July 17th, 2008.
Q. Regarding?
A. I think it is about breakdown of resources that we use to support regional projects versus the resource we keep to support global data -- global data development activities.
Q. And it had an attachment to it?
A. Yeah, it had an attachment. Which for the two teams, groups people into global roles and dedicated regional roles.
Q. Who created the attachments?
A. I did.
Q. And the -- Included with -- within your e-mail group is John Doe, Lewis Frazier, and Phil Botham. Where are they located?
A. They're all located in Jealott's Hill.
Q. Where was Marian Stypa employed at that time?

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A. Syngenta Crop Protection, Inc., in Greensboro.
(Hertl Deposition Exhibit No. 21 marked as requested.)
BY MR. TILLERY:
Q. And if you can identify -- Sorry. If you can identify Exhibit 21 for me, please.
A. This is an e-mail I had sent on September 23rd, 2008, to Phil Botham and John Doe copied to Jim Pastoor, Janis McFarland and Jonathan Akins.
Q. What does this concern?
A. This concerns the résumé of one Dan Minnema, which we looked at as an -- as a candidate to fill one of our technical expert specialist roles. I believe it's about setting up an interview plan and people that should be considered for that interview.
(Hertl Deposition Exhibit No. 22 marked as requested.)
BY MR. TILLERY:
Q. Before you start on that, who was going to be at that interview that you just talked about, that you were talking about setting up?
MR. POPE: Who was going to be there? Not who was actually --
BY MR. TILLERY:
Q. Yeah, who was anticipated. You said it was

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about setting up an interview, right?
A. Well, I -- I cannot tell you who actually did participate in the interview, but, you know, typically how we do these things, we have the local line management and peer groups participating in the interview. And we -- For specialists that we use across the globe, we also do a telephone interview with one of our people at the other location --
Q. So --
A. -- wherever the other location is.
Q. -- you're talking about people from the UK would participate in some way?
A. If they are available, yes.
Q. And they would do that by video conferencing?
A. Telephone -- telephone conference.
Q. Can you tell me what Exhibit 22 is?
A. I have to look at it. I don't recognize it.
Q. Okay.
A. I don't recognize the presentation. I don't think I've seen it before.
Q. Is what you've read in the document consistent with a project which was undertaken while you were at Syngenta?
A. Well, I haven't time to read the document. It looks like a project charter for a -- for an IM project.

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It does talk about documentation and organizing documentation, I believe. I don't know the presentation, so that's really new to me, so --
Q. Okay.
A. -- I can't comment on it.
(Hertl Deposition Exhibit No. 23 marked as requested.)
BY MR. TILLERY:
Q. Tell me what Exhibit 23 is, please.
A. It's an e-mail I received from Paul Hendley.
Q. If you'd look at all of them all the way through.
A. Okay.
Q. It's several pages. Three pages.
A. All right. I've seen the document.
Q. Yes. What is it?
A. So I think it is -- What -- What you see here is Paul Hendley was the originator of the e-mail chain. He's one of the our Syngenta fellows. Part of the larger Syngenta fellow group which includes people in product safety but also many other functions.
They look at technology trends, science trends that we should be looking into for the future. And as part of this responsibility, he suggested a number of technical areas that are of interest, general interest

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for product safety for future developments.
And he suggested that we should be looking at those from a global perspective because they do have relevance in the U.S., in Europe, and increasing relevance in other areas, like Latin America, where we do business, as well.
(Hertl Deposition Exhibit No. 24 marked as requested.)
BY MR. TILLERY:
Q. This is Exhibit 24. Can you tell me what it is?
A. It is a presentation entitled "Product Safety Greensboro," October 30, 2007.
Q. Who made it?
A. That's -- there's no author given, but I would assume that I probably did it myself.
Q. Did you write the document?
A. Yes.
Q. Okay.
(Hertl Deposition Exhibit No. 25 marked as requested.)
BY MR. TILLERY:
Q. This is Exhibit 25. Can you identify it?
A. That's a presentation entitled "Product Safety Americas Goal Setting Session," February 12th, 2008.

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Q. And are you familiar with it?
A. I am.
Q. Did you write it?
A. I did.
Q. Did you make the presentation?
A. I did.
(Hertl Deposition Exhibit No. 26 marked as requested.)
BY MR. TILLERY:
Q. Can you take a look at Exhibit 26 and tell me if you can recognize it?
A. I do recognize it.
Q. What is it?
A. It is a -- the output of a business review -- well, product safety business review session that we had in Jealott's Hill. "We" means the global product safety leadership team with the head of R&D. And so the presentations and conclusions, and this presentation -- presentation summarizes the work that was done.
Q. The second page is 67844?
A. Yes.
Q. Can you explain to me what is depicted there?
A. This was work we did during 2009 where we had a, you know, discussion about overall functional strategy for the year, which we depicted as a strategic

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star, which I think you believe -- you see on the next slide. So the different fields around that central bubble are a -- you know, inputs and -- and -- and discussions that we had during that session.

We had the NAFTA global leadership summary as an input. We did have some input from the global head of R&D, which is Sandro Arrufo. We had an internal review session with John Doe, which was an input. And then we looked at the work program for 2009 that we had to do. And from all those four, we identified our issues and challenges.

(Hertl Deposition Exhibit No. 27 marked as requested.)

BY MR. TILLERY:

Q. Can you tell me what Exhibit 27 is, please.

A. It's a presentation entitled "Product Safety 2009, NAFTA Product Safety Strategic Star."

Q. Are you familiar with it?

A. Yes, I'm familiar with it. I produced it as part of the goal setting session that we did for the year 2009, so that was a work product that came out of a joint work session with the NAFTA product safety team.

Q. And where did you present this?

A. This was for internal consumption. It was presented back to the team as goal directives for the

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year 2009.

Q. And with -- to whom was it distributed?

A. Well, it was certainly distributed to the NAFTA products safety team. I don't know what -- what the full distribution was.

Q. Beyond NAFTA, who did you distribute it to?

A. Beyond NAFTA, I -- I don't recall.

(Hertl Deposition Exhibit No. 28 marked as requested.)

BY MR. TILLERY:

Q. 28 is the next exhibit. Can you identify that for me, please.

A. It's a PowerPoint presentation entitled "Product Safety Greensboro," April 2, 2009.

Q. It's another presentation?

A. Another presentation, yes.

Q. Who made this?

A. I probably did and -- and jointly with the team.

Q. And for whom or to whom did you make the presentation?

A. This was a presentation that was made to the NAFTA product safety organization in Greensboro on that date.

Q. And -- who would that be? Explain who the

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NAFTA product safety organization would be.

A. Well, this would be the 80 full-time equivalents that were located in Greensboro on that second quarter in 2009. So all local Greensboro employees.

(Hertl Deposition Exhibit No. 29 marked as requested.)

BY MR. TILLERY:

Q. Can you explain what Exhibit 29 is? Identify it and tell me what it involves?

A. Well, the title page shows an e-mail message that John Doe sent to me on November the 5th, 2009.

Q. Okay. Can you tell what's attached to this e-mail?

A. This was after I had accepted my global role already, and I was interviewed in October 2009. By November 5, 2009, it was clear that I was offered and had accepted the role, the global role. And this was about one of the employees which was on the management team, John Parker, who was leading our outsourcing activity. And he had decided to leave the organization. He has left in the meantime. So this was a communication about John leaving.

Q. Okay. If you would go to the bottom of the second page where it starts, "Principals."

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A. Yeah.

Q. Look at the rest of the document. Can you tell me who created that?

A. This was created by John Doe.

Q. Was John Doe at Jealott's Hill at that time?

A. John Doe was located at Jealott's Hill but was head of global product safety reporting into the global head of development in Basel.

Q. Okay. And what was the purpose of the "Principal" section that was created by Mr. Doe?

A. The -- Well, the -- the purpose of the "Principal" section was to outline his thoughts about a future product safety organization.

Q. Is this an accurate reflection of the organization now?

MR. POPE: His views or the actual --

BY MR. TILLERY:

Q. Yeah, the principals in this attachment to the e-mail. Just so we're clear, I'm -- I'm talking about a total of 11 pages for that.

A. Yeah. Well, I -- you know, I cannot speak to the detail of contents that -- that's in all those 11 pages. So let me -- let me go through that.

Q. Well, just start, if you wouldn't mind, at the bottom of the second page, under principals.

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A. Yes.
Q. Is there one product safety set of standards for all of Syngenta?
A. That's correct, yes.
Q. Did you create that? Or was that already created?
A. Well, we are -- You know, part of this new organization that we have put in place in 2010 was to create that one set of standards for all of safety.
Q. Second page, the next page, the "Technical disciplines operate as global platforms"?
A. Yes, correct.
Q. Have you done that, as well, or are you doing that?
A. I have created that in 2010, yes.
Q. And go down to 3, where it says, you're "Operating to headquarters, to set standards, and using headquarters-provided databases"?
A. Well, we are operating to commonly agreed standards. The databases are actually maintained on a site provided by headquarters, but they are fed by wherever the product safety organizations are.
Q. And the next page, the top, "Develop a unified product safety organization based on four technical centers operating the product safety policy and

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standards supporting all of Syngenta activities."
Were you trying to do that?
A. Yes, correct.
Q. Next is "Jealott's Hill stays as technical center for CPR, global CPD, EAME, CP, L&G, seeds, EAME." Whatever all those acronyms mean.
Is that correct, too?
A. There are some modifications to that proposal at that point in time.
Q. Well, tell me what Jealott's Hill is going to stay as now?
A. Well, Jealott's Hill will be a technical center for CPR but not exclusively. So that will change. We will be supporting global CPD development projects out of Jealott's Hill and continue to support a product global CPD development projects out of Greensboro and increasingly do that out of Sao Paulo and out of Singapore.
Q. The -- the next one is -- It says "PS Greensboro." What does that stand for?
A. That is the product safety Greensboro -- Well, the NAFTA product safety organization --
Q. Okay.
A. -- in Greensboro.
Q. So "Product safety Greensboro and regulatory

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sciences, SBI." What is that?
A. That's Syngenta biotechnical institute.
Q. Okay.
A. That was a group within that Syngenta biotechnical institute in Research Triangle Park in Raleigh that I mentioned earlier.
Q. So Mr. Doe's recommendation was for "Product safety Greensboro and regulatory sciences SBI join to form one technical center for global CPD, NAFTA CPD, traits research, and NAFTA seeds." Is that being done?
A. This is correct, yes.
Q. Okay. And the next is to "Create a product safety center in Sao Paulo incorporating product safety experts in CP regulatory, residues labs"?
A. That's happening now.
Q. Is that being done?
A. Yes.
Q. And is that for a global support?
A. In a global support, global and regional projects, but the majority are being done to support regional projects.
Q. But they'll do global and regional?
A. Since they do new AI development support for studies that have to be done in the country, yes, by that definition they would support global projects.

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Q. Go to page 6.
A. Yes.
Q. Where it says "principle." It says, "Product safety people are located in technical centers organized into global technical platforms." What is that?
A. This is an accurate reflection of the current organization, but we have toxicologists in Jealott's Hill, in Greensboro, in Sao Paulo. They're all tied together as scientists in one global technical platform.
Q. Below that it says, "Additional product safety expertise lies with people in registration units were part of a product safety network."
Is that consistent with what you told me in this deposition, as well?
A. This part has -- Well, it's -- It's an accurate reflection of the status quo. We do have, in some of the regulatory units, people with technical expertise. But they're currently not yet part of the product safety network. So they're not organizationally incorporated. So it's -- it's -- it's a collaboration.
Q. But the plan is to do that?
A. The -- the plan needs to be worked out. This is a -- a project in progress.
(Hertl Deposition Exhibit No. 30 marked as requested.)

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BY MR. TILLERY:
Q. Explain what Exhibit 30 is, please.
A. It's a document entitled "Environmental Safety SynCRA, General Principles and Guidance."
Q. And are you familiar with it?
A. I'm familiar with the document, not the details. Certainly the document itself.
Q. How are you familiar with the document?
A. Well, it was -- This was a document that was developed to define how we would support safety evaluations for products that are registered and marketed and sold in regions and in countries where we don't have very intense regulatory frameworks. So this is an internal guidance of how the safety evaluation should be conducted.
Q. Is it currently in effect?
A. It is currently in effect, yes.
Q. When did it go into effect?
A. The document should have a title. It does have a title. 2009. It is part of an initiative that we started in January 2009 where the concept was developed, that we developed the guidance document. This is version 3. So throughout 2009.
Q. Okay.
A. And as you can see, this is still a work in

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prog -- progress because it says "Draft document."
(Hertl Deposition Exhibit No. 31 marked as requested.)
BY MR. TILLERY:
Q. This document that's been marked as Exhibit 31. Can you tell me what it is?
A. This is an e-mail that I sent to Phil Botham, Dick Lewis, Steve Maund, and the first two recipients in Jealott's Hill, the third one in Basel, and a number of people in Greensboro were copied on it. It's dated October 5th, 2009.
Q. What was this about?
A. This is about technical evaluation documents. And this was to address a -- a need that we had identified to support and compile documentation of large bodies of science that is contained in external publications and large volumes of internal documents to bring that in a comprehensive position document so that it is available for internal use, so that people didn't have to read a large amount of reports and could get a quick technical summary.
(Hertl Deposition Exhibit No. 32 marked as requested.)
BY MR. TILLERY:
Q. Can you tell me what No. 32 is, sir?

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A. It's an e-mail sent out by Andreas Wobmann, Jealott's Hill, on Friday, October the 23rd, 2009, to the product safety management team, which is John Doe's management team which had my role before he retired and I was offered the job as his successor. So that's just before the job was offered to me.
(Hertl Deposition Exhibit No. 33 marked as requested.)
BY MR. TILLERY:
Q. Can you tell me what this exhibit is, sir?
A. This is a presentation entitled "Easy 123 Implementation Roll Out."
Q. This is Exhibit 33?
A. Yes.
Q. Okay.
A. It is dated February 2009, if I read correctly. And this is a -- another presentation. This is a presentation that was given in all four regions to the regulatory and product safety teams for a new support system that we implemented in early 2009.
Q. And you said all four regions. Which four regions?
A. That was EAME, Europe, NAFTA, APEC, and LATAM.
Q. All around the world?
A. All around the world, yes.

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Q. And who gave the presentation?
A. This specific one, I cannot tell you. The ones to -- the one to the product safety and regulatory teams in NAFTA, I did jointly with a presenter that joined us via telephone from Basel, if I remember correctly. But I certainly did part of the presentation.
MR. TILLERY: We are out of time on our tape at this point.
THE VIDEOGRAPHER: This marks the end of videotape No. 6 in the deposition of Peter Hertl. The time is now 4:11 p.m. Going off the record.
(Discussion off the record.)
(Hertl Deposition Exhibit No. 34 marked as requested.)
THE VIDEOGRAPHER: Going on the record. This marks the beginning of Videotape No. 7 in the deposition of Peter Hertl. The time is now 4:14 p.m.
BY MR. TILLERY:
Q. Can you identify Exhibit 34, please.
A. It's an e-mail sent by Derek Cornes, Basel, on June the 17th, 2004, to Paul Hendley in Greensboro.
Q. Who's Derek Cornes -- Cornes?
A. Derek Cornes, I believe he was in biological development in Basel for herbicides at that point in

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time but I --
Q. Which -- which entity?
A. Syngenta Crop Protection AG in Basel.
Q. Okay.
A. But I'm not 100 percent positive. That's six -- six years ago. We'll -- we'll have to check.
Q. Do you remember the circumstances surrounding this e-mail exchange?
A. Yes.
Q. Tell me what it's about.
A. It is about a potential innovation in a early relation process, what -- what could be done on the formulation development side to reduce off-site or off-field movement of compounds. So what kind of technology could be developed to reduce the amount of material that's lost in the field conditions.
Q. Okay.
(Hertl Deposition Exhibit No. 35 marked as requested.)
BY MR. TILLERY:
Q. And if you could identify 34, please.
MR. POPE: 35.
MR. REEG: 35.
BY MR. TILLERY:
Q. Or 35.

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A. Yes. That's an e-mail sent by Jeff Fowler on December 15th, 2004, to myself and Victor Chow that did talk about funding atrazine run-off mitigation studies, so to test some of his ideas under field conditions.
Q. And there's a reference of Derek Cornes's decision not to continue the project in favor of other priorities. Do you see that part?
A. Yes, I see that.
Q. So Derek Cornes had made the decision not to proceed with this?
A. Well, in fact, we have done the project.
Q. So what was this e-mail about?
A. I think this was a discussion around funding. Where can we find the money to pay for the field studies late in the year when the budgets for 2005 had already been set.
Q. Okay. When was the project finished?
A. I don't recall that. We have the project finished, but I don't recall when it was finished.
(Hertl Deposition Exhibit No. 36 marked as requested.)
BY MR. TILLERY:
Q. Okay. Can you identify this exhibit, sir?
A. That's another e-mail from Derek Cornes sent in March of 2005, so three months after the previous

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e-mail, to Mike Bean in Jealott's Hill, who was in formulation and development in Jealott's Hill and Janis McFarland with a copy to myself, Bob Hendley, Bob Brown, Jeff Fowler, David Stock, all -- with the last one located in Greensboro.
Q. Okay.
(Hertl Deposition Exhibit No. 37 marked as requested.)
BY MR. TILLERY:
Q. Can you identify No. 37, please.
A. No. 37 is a guideline entitled "CP PLCM Project Management Handbook." It's dated May 2005.
Q. What is the document?
A. Well, I don't know the document. But I would assume it is a handbook that advises teams how to manage PLCM projects in the organization.
Q. Do you know if this one is still in effect?
A. I don't know that.
Q. Have you ever seen this document before? If you don't recognize it, sir --
A. I don't recognize it. And, you know, just looking at it, it seems to be outdated because we don't have PPT teams anymore. So that's probably a version that was in effect in 2005 but is no longer.

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(Hertl Deposition Exhibit No. 38 marked as requested.)
BY MR. TILLERY:
Q. Would you look at Exhibit 38 and identify that for me.
A. It looks like a PowerPoint presentation entitled "2009 Portfolio Investment, Impact of Cost Savings in External PS Dollars."
Q. Are you familiar with it?
A. I have not seen that.
Q. Okay.
(Hertl Deposition Exhibit No. 39 marked as requested.)
BY MR. TILLERY:
Q. No. 39, can you tell me what that is?
A. No. 39 is an e-mail chain that originated in Basel, sent out by Ralf Furter, head of development.
Q. And the topic was "Development portfolio 2009, ready to implement."
A. Yeah, and that would be the part of the funds or resources in product safety that are supporting the global development portfolio projects.
Q. Okay. And what -- what percentage was that?
A. In 2009? All I can tell you for 2010, and the number would be very similar. So --

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Q. Okay. What's in --
A. About 70 million in 2010 out of 150 million total.
Q. Who's Jasper Barnes?
A. He is the development portfolio manager for the globally prioritized run and implemented projects. So he's collecting the data and running the prioritization machine.
Q. By whom was he employed?
A. Syngenta Crop Protection AG in Basel.
(Hertl Deposition Exhibit No. 40 marked as requested.)
BY MR. TILLERY:
Q. I think this is No. 40?
A. Correct.
Q. Can you tell me what this e-mail exchange involves? First of all, it's e-mails involving you, correct?
A. Yes. It's an e-mail I -- The last -- It's a chain mail again. The last e-mail I -- I did send out. It is -- it is in relation to the 2009 development portfolio ready to implement that we've discussed in the previous exhibit.
Q. And your reference to Jon Akins and Steven Wall?

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A. Yes.
Q. And Nina Heard?
A. Yeah.
Q. You need to assess the implications in your teams quickly. What were their teams?
A. The implication -- The teams? John team's -- John Akins was team lead for the toxicology team in Greensboro. Steven Wall was the team lead for the environmental safety team. Nina Heard for the dietary safety team. And as prioritization decisions are made, it will impact the work schedule for those teams.
Q. I'm sorry?
A. As prioritizations are made, projects are being funded and other ones are not funded, it will affect the work program for the teams, and this was in -- a call to them to say, well, how does this project prioritization affect the work program for your teams relative to the objectives that we had discussed earlier in the year in one of my previous -- your previous exhibits.
(Hertl Deposition Exhibit No. 41 marked as requested.)
BY MR. TILLERY:
Q. Can you tell me what Exhibit 41 is?
A. It's another e-mail, Exhibit 41, sent out by

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Jasper Barnes in June -- on June the 10th, 2009, to a long, long distribution list. And it is entitled "CP and SC Support Project Proposals For Scoping For the 2010 Portfolio."
Q. What is the project scoping phase that's -- that's in bold in this e-mail on the first page, the bottom of the first page?
A. Okay. It's a build-up. And you start off with an idea, which starts out with an idea collection, global idea collection. So project proposals. Which has been completed. Then it goes through a ranking phase, regionally, so we do regionally ranking in NAFTA and in the other regions, and there's a global ranking phase for global projects.
And then there are -- the top-ranked projects are proposed for evaluation and scoping. And scoping means you take it beyond the idea phase. You develop a business case. You develop the actual investment need because there -- you need to probably generate data and studies and the like. So you work up both sides of the project. Its costs and its benefits.
(Hertl Deposition Exhibit No. 42 marked as requested.)
BY MR. TILLERY:
Q. Can you tell me what this Exhibit 42 is?

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A. Exhibit 42 is an e-mail sent by Alan Hosmer to Peter Campbell, with a copy to Gary Dickson, head of development NAFTA, and myself. It's dated April the 3rd, 2001. And it's entitled "South African Amphibian Study."
(Hertl Deposition Exhibit No. 43 marked as requested.)
BY MR. TILLERY:
Q. Tell me what Exhibit 43 is.
A. It's an e-mail chain mail sent by John Parker located in the UK, Alderley Park, on July 25th, 2001, to a number of people, including myself, in Greensboro, Basel, Jealott's Hill, and copied to individuals in Greensboro, Alderley Park. It's entitled New Quotations -- "Urgent, New Quotations, ES Contract Needs to Go."
MR. TILLERY: Do you have anything else you think I should ask? No? No further questions.
MR. POPE: Thank you, Steve. I appreciate your courtesy.
THE WITNESS: Thank you.
MR. POPE: Thanks, John. We have no questions. I will reserve signature, however.
THE VIDEOGRAPHER: This marks the end of Videotape No. 7.

MR. POPE: By the way, this deposition, as they all have been, is confidential under our protective order.

THE VIDEOGRAPHER: This marks the end of the videotaped deposition of Peter Hertl. This is the conclusion of the deposition. It is 4:34 p.m.

(Witness excused.)

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

CITY OF GREENVILLE, et al.,)
)
Plaintiffs,)
)
vs.) No. 10-188-JPG
)
SYNGENTA CROP PROTECTION, INC.,)
and SYNGENTA AG,)
)
Defendants.)

I, PETER HERTL, state that I have read the foregoing transcript of the testimony given by me at my deposition on the 4th day of November, A.D., 2010, and that said transcript constitutes a true and correct record of the testimony given by me at the said deposition except as I have so indicated on the errata sheets provided herein.

_____
PETER HERTL

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2010.

_____
NOTARY PUBLIC

UNITED STATES OF AMERICA)
SOUTHERN DISTRICT OF ILLINOIS)
) SS.
STATE OF ILLINOIS)
COUNTY OF COOK)

I, Jennifer D. Riemer, Certified Shorthand Reporter, Registered Professional Reporter, and Certified Realtime Reporter, do hereby certify that PETER HERTL was first duly sworn by me to testify to the whole truth and that the above deposition was reported stenographically by me and reduced to typewriting under my personal direction.

I further certify that the said deposition was taken at the time and place specified and that the taking of said deposition commenced on November 4, 2010, at 9:42 a.m.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, nor financially interested directly or indirectly in this action.

In witness whereof, I have hereunto set my hand at Chicago, Illinois, this 14th day of November, A.D., 2010.

_____
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